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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE
ORGANIZATION

TUESDAY, DECEMBER 1, 1987



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Farnan, Michael (Cambridge NDP)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Clerk: Mellor, Lynn

Staff:

Swift, Susan, Research Officer, Legislative Research Service



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, December 1, 1987

The committee met at 3:30 p.m. in committee room 1.

ORGANIZATION

Clerk of the Committee: Honourable members, it is my duty to call upon you to elect a chairman. Nominations?

Mr. Keyes: It is my pleasure to nominate and name an esteemed colleague and experienced member of this government.

Interjection.

Mr. Keyes: Bob Callahan, not you. I did not realize you were coming to the committee. I could go on at length. Do I have five minutes to speak to the attributes of the gentleman in question?

Clerk of the Committee: Are there any further nominations? I declare nominations closed. Mr. Callahan is elected chairman.

Mr. Chairman: Having won that hard-fought election, I now call for nominations for vice-chairman.

Ms. Poole: It is my pleasure to nominate Christine Hart as vice-chairman of the committee.

Mr. Chairman: Are there any further nominations? Hearing none, I declare Christine Hart vice-chairman.

Ms. Poole moves that unless otherwise ordered, a transcript of all committee hearings be made.

Motion agreed to.

Mr. Chairman: I also suggest that perhaps unanimous consent is sufficient to turn this into a nonsmoking committee. I will suck my thumb. I would like to give it up and I am sure there are enough people here who do not want smoking. The clerk indicates that we should have a motion to seal the fate.

Mr. Sterling moves that this be a no-smoking committee.

Motion agreed to.

Mr. Chairman: I understand that Monday we will be starting on the estimates of the Ministry of Treasury and Economics. As you probably know, there is a time limit on those, so it is of some importance that we try to start on time and stay on time. I ask you all to be here as soon after routine proceedings on Monday as you can.

Christine, I wish to report to you that you won an election in your absence.

Ms. Hart: Mr. Chairman, if I may, I want to congratulate you. It used to be that committees did not start until four. This must have started really promptly.

Mr. Chairman: I wandered out of the House, got lost and found my way down here.

Mr. Cureatz: Is the committee considering any further investigative processes in the ambit of other jurisdictions so that we all might be enlightened about what other areas do?

Mr. Chairman: Would you like to make suggestions on the record, Mr. Cureatz, as to where we might travel?

Mr. Cureatz: I think it is only appropriate to put the thought in people's minds so that as issues arise before us, we can contemplate what is done in other areas. I just heard the Attorney General (Mr. Scott) speak in the House, saying in regard to the conflict-of-interest bill that other jurisdictions do other things. It might be worth while to actually see what other jurisdictions do. I am just making a humble, mild suggestion.

Mr. Chairman: I doubt that during estimates we will have to travel, but who knows?

Mr. Cureatz: Halfway through we will wish we were travelling.

Mr. Sterling: I think we should consider something at some point in time, maybe the next time we meet. It is going to be more difficult to have the time as we get into estimates because, as you say, we try to press on when estimates get on, but perhaps there is some time you could meet, Mr. Chairman, or perhaps a subcommittee of this committee, to consider what might be coming down in the future for the committee. Therefore, we could determine what kind of budget we might need when we are not sitting after we rise for the Christmas break.

For instance, I understand the insurance bill will be in front of the committee. There may be a necessity for us to incur some expenses during that period of time and therefore we are going to have to strike a budget. It might be most prudent to have a subcommittee sit down and talk about this, rather than talk about it in a larger forum like this.

Mr. Chairman: The clerk and I have discussed this. Because estimates are coming first, we thought we could delay it. But if you would like to move that a subcommittee be struck with a member from each caucus and myself, perhaps that will get us on ahead of time and we can discuss some of those items.

Mr. Sterling: The reason I would like to do this is that normally it is the Board of Internal Economy that would give any kind of expenses for doing anything when we are meeting here in January, February and March if that is what is going to happen, and that is what it looks like. The Board of Internal Economy does not normally meet during that period of time. We would also have to get from the Legislature a motion indicating that we were permitted to travel, if that was decided.

Mr. Chairman: And also to sit outside of the session.

Mr. Sterling: Out of the jurisdiction. It is important that we get this thing rolling at this stage of the game if there is any intent even to look at that.

Mr. Chairman: All right.

Mr. Sterling: I asked the researcher for the committee to do some background material over the next little while as to what other jurisdictions might be involved in the issues we are dealing with in terms of the insurance bill so that we have some idea whether there is any interest in talking to other people.

Mr. Chairman: You are probably quite right that this is the bill we will get, but until it is formally given to us by the House, I do not think we should instruct the researcher to start.

Would you care to move a motion for one member of each caucus to sit on a subcommittee so that when this does happen, we can deal with it? Who are you suggesting from your party?

Mr. Sterling: We will inform you as to the name.

Mr. Chairman: Mr. Sterling moves that one member from each caucus be set for a subcommittee to meet with the chairman to determine a schedule as to what the committee's business will be over the next month and to plan for the future, of course always subject to the full committee's approval.

Perhaps the clerk could be notified as soon as we receive something specific from the House.

Mr. Kanter: On the subject of estimates, apparently we are going to be starting off with estimates.

Mr. Chairman: Correct.

Mr. Kanter: Do I understand we are going to be starting off with the estimates of Treasury and Economics?

Mr. Chairman: Correct.

Mr. Kanter: Are we going to do any other ministries or departments? This may have been summarized in the document we have somewhere before us.

Mr. Chairman: We have a number of them and they are in Orders and Notices.

1540

Mr. Kanter: I am stricken by the breadth of the ministries we are looking at and also by the fact that some of them do not seem to immediately relate to the justice committee. Is this the usual list?

Mr. Chairman: The House leaders determine that, Mr. Kanter.

Mr. Keyes: It is wide ranging.

Mr. Kanter: Yes. Actually, once you get down to the Attorney General, Consumer and Commercial Relations, Correctional Services and Financial Institutions, those are the kinds of things I would have expected to be looking at. I guess we will just range a little more broadly to Treasury and Economics.

Mr. Chairman: Could we vote on that motion, unless someone has something to say on Mr. Sterling's motion?

All those in favour of a subcommittee being struck, as indicated?

Motion agreed to.

Mr. Chairman: I would like to introduce you to our researcher, Susan Swift. Susan, would you like to come forward? Susan is new with us, six or eight weeks. She is a practising lawyer and practised outside of government for about six years. She has now--I was going to say--lost her mind in coming here. Some members have been around and know what research people do for us, but maybe Susan can briefly tell us what she does and what function she serves in the committee.

Ms. Swift: Very generally, research officers are appointed to committees, not on a permanent basis but on an issue-by-issue basis, so that our expertise can be matched with the issues that are before the committee. You will also see, as time goes on, that there will be different faces sitting here beside the chairman. That is because we often work with teams and we find that is particularly useful when we are travelling and have to do the summarization of the various briefs and the evidence that is before you.

There are basically four things that we assist you with on committees. First, we do background papers, give you background information on issues that are before you, including legal memoranda on issues that are before you and that may arise during the course of hearings.

Second, we prepare summaries of all the briefs and all the evidence presented before you in hearings. That is an ongoing summary, so that at the end of the hearings, you will have a compilation of all the recommendations that have been made to you.

If you are dealing with a bill, the way the summary normally works is that the recommendations are matched to the sections in the bill. If you look at your bill and see section 6 and you want to know what recommendations are made, we will have listed beside that section the various recommendations and which group or organization has made the recommendations to you.

If you are working on an issue, child abuse or something like that, generally the summaries are done on a schematic basis, that is, the issues that arise from the recommendations that are made to the committee. We set out what issues and subissues will be dealt with and we deal with them in that way, but the summaries can be adapted to the needs of the committee.

Third, and perhaps most important, if you are dealing with an issue where you will be making a report, the research officer can write that report based on the instructions from the committee. We do not formulate the report, obviously, but we are your scribes, in a sense, to prepare the report.

Last, we will provide you with press clippings on the hearings and on the committee itself. That is essentially our function.

Mr. Chairman: Are there any questions of Susan? I am glad Susan made it clear that we would have a different face next to me each meeting. If she had not told me that, I probably would have felt badly that perhaps I had offended her.

Obviously, Susan will not be with us for the estimates. She will be with us when something else comes down the road. If there is nothing further for the good of the club, so to speak, shall we move adjournment?

Mr. Sterling: Before we adjourn, you said you were going to wait until we were formally charged with seeing the insurance bill. Having been privy to the House leaders' meetings, I think that has already been agreed upon by the House leaders. If you confer with your House leader, then that will be the case if they have agreed upon it.

We may not get charged with that until later this week, or whenever it is, but it is going to be important to get our chit in, if you want to put it that way, with the Board of Internal Economy as soon as possible in order to get things straightened around for what might happen with this committee in January, February and March.

Mr. Chairman: I would suggest, as soon as something is referred to us by the House, that the members of the subcommittee make themselves known to the clerk and she can convene a meeting with me. I suppose we can prepare a budget.

Mr. Sterling: What I am saying is that the House leaders decide that, probably before the House formally does, and that in terms of dealing with the legislative research, we can probably start the very preliminary work on the particular piece of legislation. I can go to the legislative research people and ask them to do that now.

Mr. Chairman: The clerk advises me that we will get back to you tomorrow. Is that all right? We will probably know today or tomorrow at the latest.

The committee adjourned at 3:48 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ONTARIO AUTOMOBILE INSURANCE BOARD ACT

MONDAY, JANUARY 11, 1988



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Farnan, Michael (Cambridge NDP)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Johnson, Jack (Wellington PC) for Mr. Cureatz

McGuinty, Dalton J. (Ottawa South L) for Mr. Chiarelli

Swart, Mel (Welland-Thorold NDP) for Mr. Hampton

Clerk: Mellor, Lynn

Witnesses:

From the Ministry of Financial Institutions:

Nixon, Hon. Robert F., Deputy Premier, Treasurer of Ontario and Minister of
Economics and Minister of Financial Institutions (Brant-Haldimand L)

Davies, Bryan, Deputy Minister

Nixon, J. Bradford, Parliamentary Assistant to the Minister of Financial
Institutions (York Mills L)

Rounding, Marie, Director, Legal Services Branch

Parrish, Colleen, Director, Policy and Planning Branch

Weir, John P., Superintendent of Insurance

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday, January 11, 1988

The committee met at 2 p.m. in room 151.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

Mr. Chairman: I recognize representatives from all parties. You have a copy of the agenda before you. We also have some overheads that are going to be shown. In advance of that, I would call on Mr. Nixon to come forward. I understand he has an opening statement.

Mr. Swart: I am just wondering about the matter of procedure. There are some procedural matters I want to be dealt with, and I would prefer to deal with them now, if it is your wish.

Mr. Chairman: That is fine, go ahead.

Mr. Swart: First--and perhaps Mr. Nixon can deal with this--is whether the classification recommendations have yet been before us.

Hon. R. F. Nixon: We will be dealing with that next week.

Mr. Swart: Very good.

Second, I wanted to suggest and, if necessary, move and argue for certain additional people or groups to be invited to the hearings. If I can proceed with that now, I would like to do so.

Mr. Chairman: I wonder, Mr. Swart, if you would submit those to the clerk. He could contact them.

Mr. Swart: That is fine with me. I thought one person I would like to have here would be Mr. Kwinter. I would like to have the committee extend an invitation to him, and also to Mr. Slater, to the Insurance Agents' Association of Manitoba and to the Insurance Brokers Association of Ontario, if they have not yet been invited. They are coming now, are they?

Clerk of the Committee: Manitoba and Ontario are both scheduled.

Mr. Chairman: All right, that is two out of the four.

Mr. Swart: So Mr. Kwinter and Mr. Slater. I am not particularly pushing this, but I think it may also be useful to invite the Saskatchewan Government Insurance office to send its manager. We can invite him and perhaps any members from insurance brokers' associations that they might like to send as well. If that is agreeable, I will just leave those names with you.

Mr. Chairman: I wonder if you could give the names to the clerk and let us see what we have in terms of time available. As you know, we have a brief period and then we have undertaken to have the bill back in the

Legislature for February 8. If you would give those names to the clerk, perhaps we can hold that in abeyance and determine whether there are time slots and then deal with that a bit later in the day.

Mr. Swart: It is my understanding, and I think there was some indirect consultation, that there are time slots available.

Mr. Chairman: It is a question as well whether we can accommodate them for the time slots they would wish to have.

Mr. Swart: Right; I understand that. I understand those things have to be worked out.

Mr. Chairman: Can we leave it and deal with it later on in the day when the clerk has had an opportunity to determine that?

Mr. Swart: OK. There is the third thing I wanted to mention. Because of this bill being referred out under the standing orders, I presume there will be no limitations on any aspects of the auto insurance discussion and questioning. I want to raise that issue, that it will be wide-open discussion and questions to the groups that come in and that they will be able to make submissions on any aspect they deem advisable.

Mr. Chairman: My recollection of having chaired committees in the past is that we did not hold people to within certain parameters as long as it did not get so far outside the aspect that time was eaten up for other groups. We want all groups to have an equal opportunity to present their cases. I do not see any difficulty with that.

Hon. R. F. Nixon: We would not want to argue with the principle of the bill, which is set.

Mr. Chairman: Yes.

Mr. Swart: I think some people might. It seems to me that under the standing rules, although it is probably not necessary, a bill can be reported with amendments or not be reported. If you have all those options, I think it is absolutely essential that you have a full discussion under the bill on the whole matter of auto insurance.

Mr. Chairman: Subject to the indications I made, we want to make certain that each person who comes before this committee, within the brief time span we have, will have a full opportunity. If we deviate too far away from that, it may prevent that from happening.

Mr. Swart: I am not questioning that. I just want to raise the issue of the types of questions that may be asked. With no objection from you, I presume that they will be considered and that, within the time limits we have, questions will not be ruled out of order as long as they are on auto insurance.

Mr. Chairman: I am just here to referee this whole thing. If the committee has no objection to that, then I certainly do not. I do not see any objections being made. Is that the totality of your three items?

Mr. Nixon, if you are ready.

Hon. R. F. Nixon: Mr. Chairman and members of the committee, I thought I might take a moment to introduce the staff from the ministry

accompanying me. Also, I would like to draw to your attention that Brad Nixon, our colleague, is the parliamentary assistant. He has agreed at my request to attend the meetings I may not be able to attend. I should make it clear that he can speak for the minister, the ministry and the government on policy matters, and of course the staff I am about to introduce are competent and experienced on administration.

Bryan Davies, the deputy minister, will be here taking part. John Weir, the superintendent of insurance, is sitting at the other end of this group. There are Colleen Parrish, the director of policy and planning, and Marie Rounding, the director of legal services. These people will be participating in ministry presentations and responses over the course of this session.

I would like to interject how pleased I am to be working with these people and how well served as minister I feel in this regard. I feel confident your experience as members of the committee will reinforce and verify, over the three weeks of your deliberations, that they are knowledgeable, co-operative, sensitive and understanding in this important matter, as well as all others.

I welcome this opportunity to meet with the committee regarding Bill 2, the Ontario Automobile Insurance Board Act, 1987, and I am pleased we have reached the stage for public consultation and clause-by-clause review of this important legislation.

Last April 23, when the government first announced the initiatives related to automobile insurance, we had a very clear purpose in mind. That purpose was and continues to be to ensure the protection of consumers and to bring stability and equity to the motor vehicle insurance market.

As I said when I introduced Bill 2 in the Legislature a few weeks ago, "In a system where automobile insurance is mandatory, government has a duty to ensure that consumers receive fair coverage at a fair price." Bill 2 has been developed to provide for greater fairness and accountability in automobile insurance rates by establishing an independent automobile insurance board and by providing for regulations to introduce a mandatory, uniform, industry-wide classification system.

Today, officials of the Ministry of Financial Institutions are here to provide you with detailed information on this important legislation. Their presentation will be given in two parts. The first will deal with provisions of Bill 2. The second part will outline a proposed classification system.

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Before turning to the ministry's presentation, I would like to express some thoughts concerning the legislation before us, particularly as it relates to our commitment to an equitable and stable marketplace. The government wants to ensure a fair and open process in the delivery of automobile insurance. For this reason, we wish to see the automobile insurance board operate as an independent tribunal. As well, the board will be subject to both the Statutory Powers Procedure Act and the Freedom of Information and Protection of Privacy Act. Again, in the interest of fairness, Bill 2 requires the board to set rates or ranges of rates that are, to quote the act, "just and reasonable" and not excessive or inadequate.

It is also our intention that all the facts be out on the table so that the public can understand the factors that go into the making of the insurance

rates they pay. Accordingly, Ontario's automobile insurance board will pursue a public hearing process in a review of rates. Consumer groups, individuals and companies will be able to present their case during public hearings. As you are aware, Bill 2 provides that all insurers must use a uniform classification system for automobile insurance rates. The system will initially be prescribed by regulation.

Consistent with our commitment to having an independent determination of automobile insurance matters, we will be proposing an amendment which provides that the automobile board will then have responsibility for the revisions of the classification system over time. The classification system will determine different categories of automobile insurance and classes of risk exposure and the procedures for assigning insured drivers and vehicles to these classes.

You may recall that the commitment to a uniform, understandable and risk-related classification system was made as part of the government's announcement on April 23, 1987. This principle is incorporated in Bill 2. That commitment expressly included the rejection of age, sex and marital status as factors for determination of risk classes. In their place, the regulation will establish more acceptable risk-related factors such as the number of kilometres driven per year, the use and type of the vehicle and the insured's personal driving record. The classification system which we are developing is true to our April 23 commitment.

In the government's view, the creation of a uniform classification system will ensure a better basis with which to compare costs and will eliminate unfair discriminatory rating practices. In addition, a uniform system makes it possible for the insurance board to have industry-wide hearings to set benchmark rates. Without such benchmarks, the board would have to approve each classification on a company-by-company basis. Considering that there are over 200 companies offering insurance, I think it is apparent that such a company-by-company review process would not be practical, nor result in an effective scrutiny of industry-wide rates.

I am sure you can appreciate that establishing the content of a fair classification system is a tremendous task. A great deal of the task has already been accomplished by officials of the Ministry of Financial Institutions who have benefited from the input of an advisory committee. This committee includes consumer advocates as well as representatives of the legal profession, the insurance industry and the brokerage community. Once the classification system is finalized, insurers will be required to charge automobile insurance rates for premiums on the basis of the system, with the board determining the appropriate range of rates for various classes of risk.

Once again, in the interests of fairness, we think there should be an industry-wide mandatory system. We will be seeking wide public consultation on the content of the regulation, which will establish the first uniform classification system. It is our intention to provide a draft of the uniform classification system for public consultation prior to finalization of the regulation. I should also mention that on release of the report by Mr. Justice Osborne on motor vehicle accident compensation in Ontario, we will be also looking for any observations or recommendations that might have a bearing on this classification system.

Today's presentation and the provision of additional material as it becomes available will give this committee a first look at the classification system in advance of our planned extensive public consultation.

As well, I am releasing today a copy of phase 1 of a study relating to the distributive effects of a new standardized automobile insurance classification plan. Phase 1 deals with private passenger automobiles and taxicabs. Phase 2, covering the remaining types of motor vehicle insurance, will be made public as soon as it is completed. This material was prepared for the ministry by William M. Mercer Ltd.

In releasing these data, I would at the same time caution members that the results and conclusions arrived at by Mercer are, in general terms, a first examination from data available to us at the present time. It is not a totally exhaustive document, and I suspect others may very well produce reports of a similar nature. As well, I recognize that studies dealing with the same matter but using different assumptions could well come up with different conclusions. None the less, I thought it might be helpful for members of the committee to have the material now, as we open this stage of discussion on Bill 2.

In doing this, I would like to indicate that the ministry will be active in working in a co-operative manner with others who are seeking to quantify the redistributive effect of a new classification system. While it is not the subject of your deliberations at present, I would like to inform you that it is the government's intention to introduce amendments to the Insurance Act consistent with our April 23, 1987, commitments.

For example, it is our intention to enhance access by the Ministry of Financial Institutions to information held by insurance companies and to provide consumers with improved information related to insurance. Greater access to information will benefit all consumers. Access will extend to consumers' and policyholders' information and to records of complaint resolution. Disclosure of this material can only result in a more informed, educated and protected consumer, one better able to determine the quality of the products and service being offered.

It is also our intention to prohibit unfair practices in the sale of automobile insurance and to provide for increased enforcement powers so that those who pursue unfair practices will be penalized.

These and other initiatives included in the forthcoming Insurance Act amendments will enhance the government's ability to ensure that consumers' insurance needs are met fairly and equitably.

I would like to inform the committee that later this week I intend to provide you with copies of government amendments in connection with Bill 2 so that this committee has some notice of the government's intentions.

I will now provide a brief description of the proposed amendments. They will include the following:

A modification of the definition of "rate" to clarify that commissions are part of the rate to be determined by the board;

An amendment to the definition of "automobile insurance" to ensure that snow vehicles are included in the board's jurisdiction. The Motorized Snow Vehicles Act provides that insurance is mandatory, so it is reasonable that this group of vehicles be covered;

Amendments to clarify the treatment of dividends issued by mutual insurance companies to their automobile insurance policyholders;

Provisions that bring the Facility Association within the industry-wide rate determination process of Bill 2 in order to better integrate the Facility Association within the insurance marketplace;

A provision that provides for consumer rebates where there has been a misclassification;

An amendment to the Human Rights Code which, combined with the classification regulation, will ensure that age, sex, marital or family status or handicap in the selection or classification of automobile insurance risks will be ended in Ontario;

An amendment to clarify that anyone who gives the board notice of intention to participate in a hearing may be named as a party;

An amendment to give the board authority to modify the classification system through the public hearing process; and

A revision to the regulation-making power which clarifies the scope of the classification system.

Should the ministry develop further proposed amendments, I will bring them to the attention of the committee as soon as possible.

Having listened closely to the debate in the House, I expect members of the committee will be introducing other motions during clause-by-clause review of the bill. I believe this to be a good bill that will achieve a very worthwhile purpose: that of bringing public accountability and greater fairness to automobile insurance rates. None the less, I recognize that the committee is here to help improve the bill and I will welcome any reasonable amendments the committee may have.

1420

To complete my overview, I would like to provide the committee with a projected timetable concerning our initiatives related to automobile insurance. With regard to Bill 2, as you know, following three weeks of public hearings and a week of clause-by-clause review, we hope to have the legislation passed when the Legislature resumes sitting the week of February 8.

As for the uniform classification system, we have set a target date of February 8, 1988, for the release of the consultation draft. We have allowed for the public consultation process to continue until March 31. We are anticipating the finalization of the regulation by late May.

Work towards the establishment of the Ontario Automobile Insurance Board is well under way in anticipation of the passage of Bill 2 and the finalization of the classification regulation. The board will be appointed soon after the act is passed and will assume its responsibilities as soon as possible. Throughout the public hearings and clause-by-clause review of Bill 2, I will be asking my parliamentary assistant, Brad Nixon, to attend the meetings and respond to questions of policy which may arise.

I am very glad to take part in this opening session of the committee and hope to be available when possible, but I can assure you that the full responses of the ministry will be at the disposal of the committee and its members.

Mr. Chairman: We now have an overview by the staff. Who is going to be the leadoff hitter here?

Mr. Davies: I am Bryan Davies, the deputy minister. What our staff presentation is designed to do for the committee is to cover three subject areas. The first is the content of Bill 2 itself, which we are proposing to present in the three parts that correspond to the structure of the bill.

We would then move on to an overview of the classification system in its present draft. Third, related to that, we will present a brief highlight of the preliminary work done to estimate the impact the proposed classification system might have on the distribution of premiums paid by various categories of insureds.

As these machines get focused, you will see that the presentation on the screen right now relates to Bill 2. We are circulating material supporting these verbal briefings as we proceed. I believe being circulated to you right now is an outline of Bill 2 itself. We estimate our total presentation time will be somewhere in the order of an hour to an hour and a half, and I presume it would be the pleasure of the committee to ask questions as we proceed.

We have tried to break down our presentation into segments, segments that we hope will hang together in and of themselves and might answer many of the questions that might come up. If I could suggest it, it might be useful for the committee to hold questions until one particular segment is completed, in the event that those questions might already be answered in the process.

Mr. Swart: Mr. Chairman, on a point of order: There were two or three questions I wanted to ask of the minister, which are not terribly controversial questions but are for further information. Should I put them at this time or later?

Mr. Chairman: Now would be fine now.

Mr. Swart: One, I gather from this there will be no classification recommendations before this committee to be dealt with while we have these sittings.

Hon. R. F. Nixon: It is our intention to present to you today--and you may not yet have it presented--an information paper on classification which takes us to the point where the ministry is now. It contains the thinking of the ministry with the variables and our selection, in many instances, of the options which will be, in the long run, put in the form of a regulation. The draft regulation which will be presented for public discussion is not ready at this time and, frankly, it is our intention to use the input from the committee in the drafting of that regulation which will go forward for public discussion.

Mr. Swart: Then the public discussion will be held by whom? When you come to the public discussion phase, which is after February 8, who will be hearing the submissions? Is it going to be this committee or is it going to be a committee of your ministry?

Hon. R. F. Nixon: They submit their responses to our draft regulation to the minister, and it is then put in the form of an order in council which I present to my colleagues in the cabinet. On approval, it then goes to the newly established rate review board. I think you will recall in my comments we are indicating that once that is established, aside from general

guidelines from time to time, it will be the responsibility of the independent tribunal.

Mr. Swart: I understand that. I understand further to what you say that you will be hoping this committee will be making recommendations relative to classifications.

Hon. R. F. Nixon: Quite acceptable.

Mr. Swart: Fine. There are going to be open hearings on the rate review hearings. It does not mention it in here, but is there any funding being considered for those groups that might want to go into some depth in presenting the consumer's side?

Hon. R. F. Nixon: The policy of the government has not been announced on intervenor funding, if you might call it that, at this time.

Mr. Swart: That is what I am referring to.

Hon. R. F. Nixon: The speech from the throne a year ago indicated that there would be a policy announcement, which is not yet forthcoming. I share some of that responsibility but I do not carry it all. I think and trust there will be an announcement in future about that. My expectation of it applying to this review, however, is that it will not.

Mr. Swart: I was not thinking of this review. I was thinking of when the time comes for the board to set the initial rates and perhaps any changes thereafter. You are giving no commitment on that?

Hon. R. F. Nixon: Definitely no commitment.

Mr. Swart: Perhaps we ought to have some further discussion about that, but I said there would be nothing controversial at this time.

Finally--you may want to answer this or want your staff to answer; there may be a simple answer--if we are going to have classifications and you are going to eliminate rates based on age, sex, marital status or family status--of course, I think everyone on this committee will be in agreement on that--what provision will there be that our insurance companies will not refuse to insure the groups, such as young males, they may consider high risks?

Hon. R. F. Nixon: I do not think we have any guarantee other than the fact that those companies are doing business here and will want to continue to do business here. We are talking about a classification system that will be mandatory.

I referred, following a suggestion that came I really do not recall from where, to an amendment to the Human Rights Code actually being included in this act. I do not really see under those circumstances that any company that decided to continue doing business in this jurisdiction would be able to do so unless it followed our mandatory requirements in that regard.

Mr. Swart: I understand the mandatory requirements but I do not see a mandatory requirement that any insurance company must insure anybody. If I were an insurance company interested in the bottom line, I would not be insuring young people who on average are higher risk, although many of them are as low risk as you and I.

Just for the record, I should point out it was I who suggested, as was implied by your smile, that a prohibition of rates based on age, sex, marital status and family status should be in the bill. But there are other matters of real concern. I may pursue that question further with some of the staff.

Hon. R. F. Nixon: How do we force them to do business here?

Mr. Swart: How we force them to take those? Surely you are aware that in the last two or three years, even where they were able to charge much higher rates to young males, very many of them discriminated very much against young males, who ended up in the Facility Association.

Hon. R. F. Nixon: I will be interested to see what the responses are to questions you will ask witnesses from the industry during the course of the next few weeks.

1430

Mr. Chairman: This is not an invitation, but are there any other questions of the minister from any other members before we proceed with the presentation? Are you in agreement that after each segment of presentation, you would then ask questions? I think that is probably the easiest way to do it, rather than to wait till the end.

Mr. Davies: The segments are 10 or 15 minutes in length, so you will not have to wait too long.

The first segment is part I of Bill 2 itself. Marie Rounding, director of legal services for the ministry, has a brief presentation on part I of the bill.

Ms. Rounding: Mr. Minister, Mr. Chairman, members of the committee, I believe you have now received the handout entitled Outline of the Ontario Automobile Insurance Board Act.

Mr. Chairman: Can everyone see the slides clearly? OK.

Ms. Rounding: Part I of the act outlines the composition of the board, its administration, powers and duties. If you can just bear with me as I take you through this rather technical legal establishment of the board before we get to part II, which is really the meat of the matter and determines how the rate review process will take place.

Before getting into the detail of part I, I would just like to point out a couple of things. First of all, this board is a schedule I agency, and most Ontario agencies that carry out public policy fit into this category. It has a significant characteristic of schedule I agencies; that is, they are funded out of the consolidated revenue fund or moneys collected from the public by means of levies. This particular board will have elements of both of those characteristics.

There are also certain standard clauses that apply to Schedule I agencies. You may have noticed, if you have had a chance to look through Bill 2, that some of the sections in part I appear in other pieces of legislation that established administrative tribunals, such as the Ontario Energy Board Act or the Ontario Municipal Board Act.

Also, as the minister has pointed out to you, the Statutory Powers

Procedure Act applies to this tribunal. This means this legislation confers a statutory power of decision, which is one which decides legal rights, duties and powers of a person or a party. The Statutory Powers Procedure Act sets out the minimum rules of proceedings before administrative tribunals and relates to such matters as adequate notice, the right to public hearings, the right to legal counsel, the right to examine witnesses and admissibility of evidence at a hearing.

Therefore, if Bill 2 is silent on a certain procedure, it means that the Statutory Powers Procedure Act applies. For instance, if you look at part I, you will find there is requirement that the board produce written reasons. However, if you look at section 17 of the Statutory Powers Procedure Act, it indicates that if any party does request reasons, the board must provide those written reasons. Therefore, in this case, that act would apply.

Legislation can either broaden or restrict the Statutory Powers Procedure Act rules. However, if there is a conflict, the Statutory Powers Procedure Act applies unless there is an express statement in the bill that says that it does not apply, and there is no such statement in this bill. Therefore, you will find such provisions, for instance, regarding notice. The Statutory Powers Procedure Act has certain minimum requirements for public notice to hearings. We go beyond this in Bill 2 and there are actually specific people who are required to have notice, so the provisions in Bill 2 are complementary and broaden what is in the Statutory Powers Procedure Act.

Before part I is the first section of the bill, which is the definition section. The minister has already indicated to you in his opening statement that we will be proposing two amendments to the definition section. Part I begins with the establishment of the board in sections 2 and 3, and you will find that on page 1 of your handout. It establishes the board and is composed of members who are appointed by the Lieutenant Governor in Council.

The number of members is not specified but there must be at least three members, as that number is required for a panel in what is known as an industry-wide hearing. Colleen Parrish, my colleague, will be getting into a description of an industry-wide hearing, but that is one in which the rates are set across the board for all categories, and therefore it is of interest to all people in the industry.

Leaving flexibility as to the board's size and composition will permit appointments to be made as required. It may be that at the beginning, during the startup period, more members will be needed.

Section 5 provides for the appointment of the chairperson and one or more vice-chairpersons and outlines their duties. It is the chairperson who is responsible for assigning various members to the panels of the board, and the significance of this industry-wide hearing is recognized in this section by the requirement, as I have mentioned, that three members must sit on such a panel.

Turning now to the quorum and completion of matters, section 4 provides that one half of the members of the board and half of the members of the panel constitute a quorum. This becomes significant when we take a look at section 6 which allows for the completion of matters by a member who resigns or retires part way through a case. It also allows a panel to complete matters where a quorum may be lost because a member, perhaps through illness, is unable to continue with a hearing. This is especially significant where there could be very lengthy hearings and it prevents wasting of resources in circumstances where there should not be any prejudice to the parties.

The administration of the board: Section 7 deals first with the providing of the appointment of board staff under the Public Service Act and it also allows the board to retain professional technical assistance, such as actuaries, from the private sector. This will be very important in terms of looking at rates across the board and setting up a proposal.

Section 9 is a standard schedule I agency reporting requirement that requires the board to report annually to the minister through the Legislature and to supply other information and reports the minister may require.

Section 10 really categorizes the board as a schedule I agency in that it provides for government funding of the board and also for some of the cost recovery of the board's expenses by permitting an assessment by the Lieutenant Governor in Council of all insurers for the board's expenses that have been paid through an appropriation of the Legislature. The section also requires that any assessment against the industry be made on a pro rata basis for each insurer, based on the total gross premiums written for automobile insurance in the previous year.

Moving on to immunity and crown liability, section 8 gives personal immunity for members of the board, its staff and its professional advisers, provided they act in good faith. The crown, however, is not relieved of tort liability that it otherwise would be subject to as a result of the actions of those people I have mentioned. These are standard immunity and crown liability provisions found in many statutes.

The section also provides that board members, staff and professional advisers are not required to testify in any civil or administrative proceedings with respect to information obtained during the performance of their duties under the act, unless the board consents. This provides some protection for the staff in obtaining information and also ensures that they will not be required to give evidence in improper circumstances.

The board's procedures are outlined in sections 11, 13 and 15. Section 11 requires the board to use expeditious procedures, which really means the board should act efficiently, and allows the board flexibility in determining appropriate procedures to use in any given hearing in order to get directly to the merits of the matter at issue. Notice provisions in the section supplement the requirements of the Statutory Powers Procedure Act, as I have indicated.

Besides giving adequate public notice, which the board has the power to determine, it requires that notice be given to all insurers in an industry-wide hearing and that the superintendent of insurance receive notice in cases of all hearings before the board.

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This section also sets out the parties to a hearing and authorizes one party, such as the Insurers' Advisory Organization, to represent a number of parties if they have a common interest. It also allows the superintendent to appear at any stage in a hearing or appeal, whether or not he has participated earlier.

In subsection 11(5), it is intended that anybody who applies to the board will be named as a party. However, as the minister has indicated, the government is proposing an amendment that will clarify and spell out the fact that anyone who gives the board written notice of his intention to participate in a hearing may be named as a party.

Section 13 provides that the board should proceed by order in determining the matters before it. The subsections under this section give the board some flexibility, in that the board is permitted to make the order subject to certain terms or conditions and also subject to conditions precedent. It also allows for interim orders. This is important sometimes when you have a very lengthy hearing and it is necessary for the board to take some interim action part-way through it. For administrative convenience, the board would be able to designate a person to sign orders on its behalf.

Insurers, in an industry-wide hearing, and the superintendent must be provided with a copy of any board order, as they may not have been parties to the hearing--and all parties to the hearing will receive copies of the order--but they will either have a direct interest, as the superintendent has, or, as all insurers, will be directly affected by the outcome of such an industry-wide hearing.

Section 15 sets out the procedure for allowing public access to examine and copy any material that is filed with the board for any particular hearing. This access-to-information provision is consistent with the Freedom of Information and Protection of Privacy Act.

Turning now to the powers and duties of the board, the powers and duties are primarily spelled out in section 12, which is quite a lengthy section, and it allows the board to make its own rules and to determine what is adequate public notice.

There are several subsections which deal with the board's powers to obtain information. It has the power to conduct inquiries and inspections and obtain additional information, not only from insurers but also the Facility Association and what is known as an insurers' association. This could be an association such as the IAO, the Insurers' Advisory Organization, or the Insurance Bureau of Canada. These organizations often have a lot of information and statistics relating to automobile insurance.

It also authorizes inspectors appointed by the board to enter premises, to make inquiries, to examine documents, to make copies of those documents, and those documents, as copies, are admissible later on in a hearing. It also allows them to require that computer data be provided in a form that is acceptable to the board, because a lot of the information is retained in computer banks.

These powers will allow the board to maintain a monitoring function and also to obtain the information necessary to permit the staff to really consider the modifications that might be necessary to rate ranges or the classification system.

To make sure that these powers are not abused, though, the powers of the inspector are spelled out in detail in the section and certain safeguards are provided, such as search and entry warrants being required with respect to entry of a private dwelling.

Section 16 is the cost award power for the board, and its provisions are the same as those found in other acts, such as the Ontario Energy Board Act and the Consolidated Hearings Act. It allows the board to fix the costs or have them assessed and establish a scale of costs.

The board is given quite a broad discretion to determine to whom and from whom the costs are awarded. This section would allow the board, for

example, to award costs to interveners and require that the insurers pay those costs. Usually, boards develop certain criteria that the interveners must meet before they are eligible for an award of costs.

Subsection 16(4) also allows the board to recover its expenses from a hearing. In essence, it is a type of user fee and it could be used as an alternative form of funding to the appropriation of moneys from the Legislature with a pro rata assessment to the industry, as I previously described in section 10.

Finally we turn to the jurisdiction, reviews and appeals. Section 14 gives the board powers which are typical of other administrative tribunals. For example, it has exclusive jurisdiction to determine all matters of fact and law, subject to a limited appeal, and it has the power to reconsider any order or decision made by it in whole or it can take a look at part of one of those decisions or orders.

This gives the board flexibility to review a decision if, for instance, new evidence comes to light. This power is also found in other acts, such as the Ontario Energy Board Act and the Ontario Municipal Board Act.

Section 17 contains another power that is also found in the two acts to which I have just referred. It permits the board to submit a question of law to the Divisional Court for its opinion and determination. This permits the settling of uncertain questions of law, such as what powers are within the board's jurisdiction, without having to go through a lengthy, costly proceeding before the board, with the possibility that the result might be overturned later on by an appeal at the court.

The appeal provision itself is outlined in section 18 and it provides for an appeal from a board's decision to the Divisional Court but only on a question of law or jurisdiction, not on fact. The rationale for this is that the courts usually take the position that an administrative tribunal has a certain expertise in the subject matter and they are reluctant to interfere with a finding of fact. But because this tribunal exercises the statutory power of decision, that is, the Statutory Powers Procedure Act applies, the Judicial Review Procedure Act also applies, and judicial review is available as an appeal mechanism in addition to the appeal provision outlined in section 18.

In this section it indicates that, in contrast to civil proceedings, an order of the board is not automatically stayed pending an appeal, unless the court otherwise orders. Therefore, this section cannot be used to delay the implementation of an order which, for instance, affects rates.

That completes the description of part I, the composition and establishment of the board.

Mr. Chairman: Before I open it up to questions, could I just ask you one question? Where does the act refer to the application of the Statutory Powers Procedure Act?

Ms. Rounding: It does not refer to it.

Mr. Chairman: Does that act say--

Ms. Rounding: Yes. The act itself indicates that where an administrative tribunal has the statutory power to make a decision, it automatically applies.

Mr. Chairman: We have some questions from members. Mr. Swart first.

Mr. Swart: Perhaps for clarification of what the minister said in his comments, and I just want to make sure I understand, if I could ask him one other question. Assuming that he as a minister will be wanting a report from this committee, we would have to do some kind of a report if we are going to recommend classifications. Normally, when you deal with a bill, you deal with a bill and report the bill or amendments to it.

Is it my understanding that in fact there will be a report coming from this committee and you would like that, on classifications and perhaps some other matters?

Mr. Chairman: The only reference we have, as I understand it, is the bill.

Hon. R. F. Nixon: The committee, as I understand it, is dealing with Bill 2. Bill 2, however, does empower the government to establish a classification procedure by regulation, and what I have said, really in response to the views expressed on second reading, is that the committee would like to be apprised of the government's views on classification. We are not yet ready to present a draft regulation. We believe the views expressed on that by members of the committee and other members of the Legislature as well are something of value. I do not consider this a reference from the Legislature on this specific thing, other than that it is a part of the bill itself; that is, it empowers the government to establish a regulation for classification.

Mr. Swart: I am slightly at a loss, because my interpretation, wrongly so, of what you said before was that you would like the opinion of this committee with regard to the classification system. How do we give those opinions unless we make a report--and I would be the first one to admit that would perhaps be inappropriate, unless we endeavour to establish classifications and put them in the bill? There may be some that should be put in the bill, but how do you get that information? We will be hearing from many across this province who will want to talk about the classification system; I am sure some of the insurance companies will. How do we get a recommendation from this committee to the ministry on the matter of classifications unless we make a report of some kind?

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Hon. R. F. Nixon: If I may respond, the most informal is that Mr. Nixon and I and the members of the staff would take into consideration the views expressed in the discussion and the debate here in the committee. But you may recall that there was at least some thought when Bill 2 was referred that putting the classification forward formally might very well replace the very important discussion on the bill itself, the powers of the board and its procedures, which is really the meat of this bill.

The government has the responsibility to establish the regulation, and the views of the members of the Legislature would be expressed in a wide variety of ways, informal and formal, available to them.

Mr. Chairman: I was going to indicate that it could be through Hansard, and also that the subcommittee could meet, if it wished, to express a view in the form of a letter to the minister. That may be another way we could do it as well.

Mr. Swart: That is exactly what I am getting at. Are we going to do that sort of thing? It is one thing for Mr. Nixon or anyone else just to read Hansard--the chairman and the minister know how much attention is paid to that--but if there is a formal recommendation, whether it is in the form of a letter or whatever the case may be, it does carry some weight. My opinion would be that we should have something formal, whatever form it takes. I do not care whether it is in the form of a letter to the minister or a recommendation from this committee in the form of a report. I feel rather strongly that we should be looking towards formal or semiformal recommendations to the ministry.

Mr. Chairman: I understand we could do that, but it could not be tabled in the House; that is the only side of it. It is not part of the direction. It would be a formal letter to the minister. Does that satisfy your question?

Mr. Swart: I think it is a matter we can deal with at a later point, whether the committee decides they want that form of report. I have to agree procedurally that I do not know of any way that you can have a formal report from this committee along with the bill which would be tabled in the House, but if it can be done in some other way, then I am suggesting we do it in some other way.

Mr. Runciman: I have a couple of things. I guess I would like to ask the minister about clause 12(1)(e), which strikes me as a rather radical proposal in terms of sending people you are going to call inspectors into private businesses to go through their files and try to take records out from that business. I am wondering why you and your officials feel that sort of heavy-handed approach is necessary.

I can see that sort of thing, and it does occur, with the Ministry of the Environment and other agencies that are contemplating the laying of charges; but you are talking about rate increases and about sending inspectors into private sector businesses. It just strikes me as rather unusual, to say the least, and I would like to hear the rationale behind it.

Hon. R. F. Nixon: I do not consider it unusual in view of the principle of the bill, which has been accepted by the House, and that is to give this board an independent responsibility to establish rates which, I suppose, in some very real way are associated with the actual costs of doing business and providing the coverage.

While it might be appropriate simply to accept the submissions from the various segments of the industry concerned, it was deemed appropriate that the government ask the Legislature for the power and the right to confirm that information and to see that it is appropriate. We have discussed this with our legal counsel, and I might ask her to add something further to it.

Mr. Runciman: I would like to know if there is anything comparable in the government as well in any other ministry.

Ms. Rounding: Yes, I think there are powers that are comparable, and this has been reviewed by the Ministry of the Attorney General to make sure that it does not offend the charter.

Mr. Runciman: Will you provide us with information on other areas where it is comparable?

Ms. Rounding: I think we could do that.

Mr. Runciman: I would appreciate it.

Ms. Rounding: One of the reasons that is in here is--it is twofold, really. There is a monitoring function such that the board will want to have access to certain information. For instance, if it wants to look at the issue of cross-subsidization and so forth, in order to find out if that is happening, it will probably need more information than what is being filed in a hearing. There are also certain offences that are created under this act, and in order to find out whether there is evidence to support a charge, the board will need more information. As I pointed out, there are also various safeguards that are attached that spell out very specifically the powers that the inspector has. He has no more powers than are spelled out in the act.

Mr. Runciman: What kind of offences are we talking about?

Ms. Rounding: It could be any breach: noncompliance with the act, any breach of any provision of the act or of the board's regulations, which are not yet prescribed, or of any of its orders.

Mr. Runciman: We will get into this in more detail, but I think it reaffirms the interventionist nature of this government. That is a theme, as you know, that I am going to be stressing throughout the coming days. I would like to hear the officials try to give us an indication of how this board is going to function and give us some examples of how they see it, you know, with individual cases coming before it. Is that going to come on later?

Mr. Chairman: That is part II.

Mr. Runciman: All right, we will leave it until then.

Mr. J. M. Johnson: Just basically a supplementary to my colleague. I am concerned about all this power being granted to a board: "provides for the powers and duties of the board, including the power to make its own rules of procedure, conduct inquiries and inspections, authorize inspectors to enter premises and examine documents," etc., and even to enter dwellings--of course, with a warrant. That seems awfully heavy-handed for this piece of legislation.

By coincidence, I received three phone calls this morning pertaining to an inspector from the Ministry of Labour, an entirely different matter, but they were concerned about inspectors exercising, in their opinion, too much power. This was a health and safety factor on which I supported the ministry, but I am just a little concerned when we get into a new bill and we emphasize the powers that this board has. Do the individuals have any powers? Do the people on the other side have any recourse if the power is abused?

Ms. Rounding: Are you talking about the individual insurers?

Mr. J. M. Johnson: Yes.

Ms. Rounding: I suppose there are certain provisions to provide for no abuse, but I suppose they could go for judicial review and indicate that they have not been treated with natural justice or fairly, or that there was bias or something of that nature.

Hon. R. F. Nixon: In that regard also we have to understand that the Legislature has made the insurance coverage for automobiles mandatory. I think

the honourable member and all of us, as members of the Legislature, are aware of the concern expressed in the community about the provision of this coverage in the past. This bill establishes an independent tribunal which has as its main function the establishment and enforcement of a classification system which--we hope and I trust and I am so committed--is going to guarantee fairness and equity. Therefore, the factual information must be available to the board.

I say again it is our feeling that it is not sufficient simply to ask the industry for certain pieces of information without the power to verify that information if, in the judgement of the board, that is seen fit.

Mr. J. M. Johnson: One last thought and then I will leave it. I believe in equity and fairness to both sides, and if there is an abuse or an apparent abuse of power, then there has to be a mechanism that can address it. We have to build in some guarantees that certain people do not abuse the powers they are given.

Hon. R. F. Nixon: I think the guarantees of the rule of law are viable and apply in other pieces of legislation as well. This is a substantial departure. Although other jurisdictions do have rate review, they vary in the intensity and effectiveness of that rate review from simply a listing of what the rates are to something more nearly aligned to what we have in mind, which is in fact a tribunal with the powers to set a rate or range of rates.

1500

Mr. J. M. Johnson: Do we have information on other jurisdictions with similar powers?

Hon. R. F. Nixon: We do.

Ms. Rounding: I do not have it before me, but I believe the new Loan and Trust Corporations Act, Bill 116, has a very similar power. The Securities Act does as well.

Mr. Chairman: Another Nixon has a point to follow with the senior Nixon.

Mr. J. B. Nixon: I would just like to make a comment in response to the question asked regarding the fairness that both parties be protected from abuses. Of course, any insurance company would have the right, as any citizen does, of contacting a lawyer and seeking an injunction to prevent the exercise of a warrant or an exploration of its property.

If they did not seek an injunction but allowed it to proceed, they could, as Ms. Rounding has suggested, exercise a review in the courts of the exercise of the board's discretion in exercising that warrant. So those rights already exist at law and are available to any individual or corporation.

Ms. Hart: I have a procedural question. Perhaps I will address it to staff and if it is not appropriate, you can let me know.

Section 17 deals with matters that go to the Divisional Court. As an advocate before that tribunal, my question is, why the Divisional Court? When it is going to take you at least a year to get a decision, why not just a single judge of the High Court? It might be a very small matter. It might be a matter of standing before the board. What was the thinking behind making it the Divisional Court, since it can be upon the application of anyone?

Ms. Rounding: Because it is an administrative tribunal and all those matters go to the Divisional Court. You will also find identical wording in the Ontario Energy Board Act and in the Ontario Municipal Board Act.

Ms. Hart: I can appreciate that, but is there any other reason?

Ms. Rounding: There was a case recently before the Divisional Court that was put by the Ontario Energy Board and it was heard relatively expeditiously, say, within six months.

Ms. Parrish: If it is a matter of urgency too, you can apply to go before a single judge in Divisional Court. Of course, you almost (inaudible) to say that it is a matter of urgency, but you do have the same right to go before a single judge in the Divisional Court if it is a matter of urgency.

Ms. Hart: But if you had a question that had to do with standing before this court--I use that; it is not a likely one before this tribunal--which is a very simple matter, it is not likely the Divisional Court is going to consider that of such moment that it will deal with it immediately. Is there a way to build into the statute a procedure or perhaps even mention that you could go to a single judge of the High Court on small matters?

Ms. Rounding: Usually, this is an item that we would discuss with the Ministry of the Attorney General. We could do that in this regard to see if that is feasible.

Mr. Chairman: Any further questions? If not, we can move on.

Mr. Swart: I have a couple of questions. I think I know the answer to the first one.

Under this bill there is no provision in the appointment of the board for having any kind of broad representation from across the province, of consumers, of insurance people, of the various people affected. It is entirely within the power of the government to appoint whomever it wishes to this board. Correct?

Ms. Rounding: There is no specific provision for the types of representation on the board. Yes, that is correct.

Hon. R. F. Nixon: If I may just add to the answer, I think the government would be very unwise, for example, if it appointed a board entirely from the Niagara Peninsula or something like that.

Mr. Swart: It could be worse; it could be the Brantford area.

Hon. R. F. Nixon: I think the feeling was that the judgement of the government would be in the composition of the board, and naturally it would be subject to the criticism that might be forthcoming. Except in this case, I am sure that when the board is announced, it will be generally acceptable to all reasonable observers.

Mr. Swart: If we look at the advisory committees, it does not give us a great deal of faith to believe that the consumers will have anything like a dominant or even a major part in that board. However, I just wanted to clear that up.

Interjection: Should be all consumers.

Mr. Swart: With regard to the cost, the minister has stated that there is nothing in the bill that would provide costs to interveners. I presume the interpretation of section 16, as inadequate as it would be, would still not be broad enough to provide money to interveners for their expenses.

Ms. Rounding: Yes, that is correct. In fact, the energy board did state a case on this particular wording to the Divisional Court and the court did decide that this particular wording did not allow a cost to be awarded in advance of a hearing for intervenor funding.

Mr. Swart: Yes. So there is no provision anywhere in the act for any intervenor funding, even though there will be vested interests and organized groups that will be able to have hundred of thousands or millions of dollars, such as the insurance industry. To the consumers, it will have to depend on individuals or some sort of hypothetical organization that could provide the same kind of money for themselves to have some equality of representation at these hearings. This bill itself does not provide for any intervenor funding whatsoever.

Ms. Rounding: No. As the minister indicated, there was support of the policy indicated in the April 1986 speech from the throne. I think the government is actively considering it, but until a decision is made as to how to proceed--and it would probably apply to all administrative tribunals--this bill has not taken that into consideration at this stage.

Mr. Swart: That bothers me. That was in the 1986 throne speech. We are now in 1988.

Mr. Chairman: Is that it, Mr. Swart?

Mr. Swart: That is it. That is the only question I have on this.

Mr. Runciman: I just wondered about whether the projections have been done to indicate what kind of staff complement we are looking at for the support.

Mr. Davies: Perhaps I could answer that. We have been doing some preliminary work on that. It is still at a stage that it has not been forwarded to any of the procedures inside the Ontario government that you would be familiar with, Mr. Runciman, such as Management Board, to be reviewed.

Mr. Runciman: I would not be familiar with Management Board? Is that what you are suggesting?

OK, go ahead. I used to be a member of Management Board.

Mr. Davies: No, I am sorry--

Hon. Mr. R. F. Nixon: He said you would be.

Mr. Runciman: Would not be.

Mr. Davies: Of those that you would be familiar with, such as Management Board. But we have been doing some work on them.

Mr. Runciman: You are saying you cannot give us a tentative figure now?

Mr. Davies: It is very difficult, prior to the actual passage of a

bill and the confirmation of what powers and authorities the actual board would have, to firm up an estimate of its staffing needs.

Mr. Runciman: It is a ball-park one; we will not hold you to it.

Mr. Davies: Anywhere from zero to 100?

Mr. Runciman: OK, we will go with 100.

Mr. Davies: I would go much lower.

Mr. Chairman: Could I just ask one question? Under section 14 of the act, it grants exclusive jurisdiction to the board to determine all questions of fact and law. I believe I asked this question of you on an earlier occasion. Is that appropriate in view of the fact that these are provincially appointed people, as opposed to section 93 judges?

Ms. Rounding: It does not infringe the section 96 powers, I think it is, in that they are very specific powers that are given to this board to deal with individual rights. If the board were given broad powers to expropriate, that would be infringing on the court's jurisdiction, but, for instance, the Ontario Municipal Board is given very specific powers of expropriation. Here the powers that are given are very specific. There are no broad powers that the Supreme Court might exercise, so there should not be a problem here.

Mr. Chairman: Is that the reason the Ontario Municipal Board does not determine questions of law?

Ms. Rounding: Perhaps it is. It depends. It is only if it exercises powers of the Supreme Court, so it can determine certain questions of law, but it depends on what it relates to. It is hard to--

Mr. Chairman: You are satisfied that that section is--

Ms. Rounding: Yes.

Mr. Chairman: I would hate the whole thing to collapse on that.

We now have the second presentation by Ms. Parrish, which is dealing with part II. Would you like to proceed?

Ms. Parrish: Part II is the part that deals with the process.

Section 19 really establishes the principle of a uniform mandatory classification system, which will be prescribed by regulations initially. As the minister mentioned in his opening statement to the committee, he will be bringing forward amendments which will transfer the classification system to the board so that, pursuant to a public hearing, it can revise the regulations. Initially, they will be prescribed by regulation.

Subsections 21(1) and 21(3) essentially say that once the regulation is prescribed, companies must use the regulation system to determine rates, that is, they cannot use something other than what is prescribed by the regulation or specifically exempt it.

outlined in section 29, which I probably will be speaking to later when we deal with part III. In essence, the part starts out with the principle that a uniform, mandatory classification system will be prescribed for automobile classifications, saying there will be categories such as commercial automobile insurance and the risk exposures such as use of the vehicle or miles driven.

Once the uniform classification system is set, the board is then in a position to conduct a rate hearing. To make that a little more comprehensible, we have a chart which will outline the rate review process. For those of you who do not have eagle-eye vision, this is contained in the last page of the handout.

The uniform classification being set, it is then possible for the board to have a hearing on the rate ranges that are appropriate for the classification system. The system of setting the rate ranges is set out in section 20.

In essence, the board holds an industry-wide hearing and reviews the rate ranges that can be set for each classification area. In a very simplistic way, what would happen is that the board would have a hearing. It would then hear all the evidence put forward by the various parties. It could then set a range of rates or an individual rate that was, in the words of the bill, "just and reasonable and not excessive or inadequate." That means the board would have to look at all of the rate ranges to determine whether the amount of money that should be charged was reasonable in the circumstances and was not excessive, in the sense that it was too much for the risk, and not inadequate, that is, too little for the risk.

The question may arise as to why inadequacy is an issue. One of the reasons that inadequacy is an issue is that if any particular group of classification factors is paying too little, it probably means somebody else in the system is subsidizing that risk by paying too much. So the board has to look at all of the risks in the system and ensure that every box within the classification system has a rate which is appropriate for the risk that the classification bears to the entire insurance pool.

At the industry-wide hearing, the board would set a rate range. For example, it might very well say, "For this particular risk, we feel the range that could be charged by the company should be, say, between \$200 and \$250 for this particular kind of risk." What would then happen, as is outlined in the flow chart, is that the company would have to make a decision as to whether it wished to charge a rate within the rate range. The company might be looking at its own business and make a decision that it could charge within the rate range of between \$200 and \$250. If it was satisfied with that, it would simply file with the board what its proposed rate was. So the company says: "We would like to charge \$225. This is within the rate range."

It would then file with the board its proposed rate which was within the rate range. It is required by the bill to do so within a 60- to 120-day period, in order that the rate range would become effective during this period. If the company files with the board, after 20 days the board is deemed to consent to the rate range filing. So if that individual company can fall within the rate range, it does not have to have an individual hearing for itself. It can simply file its range within the overall rate range which has been set by the board.

If a company wishes to use a rate which is outside the rate range, it then must use a different procedure involving public hearings. So companies

that wish to apply for a rate which is within the rate range which has been set pursuant to this industry-wide hearing simply apply under section 22, and they may charge the rate that has been set by the board in the industry-wide hearing.

If they do not wish to do so, they would apply to the board to use a rate which is outside the rate range, and that is contained in section 23. At the board, the company must show that the rate it wishes to charge which is outside the rate range is justifiable. So the company is in the position of having to prove its case, for instance, if the rate range is \$200 to \$250 and for some reason this particular company wishes to charge \$265 for this risk, the onus is then on the company to prove before the board that its rate is justifiable.

The board then has the power, when listening to the company putting forward its case, to agree with the company and to permit the company to use a rate outside the rate range or to disagree with a company and set a different rate range for the company to use. So the company is in the position of having to prove its case.

There is a hearing in a circumstance such as this, and those persons who oppose or disagree with the company's desire to use a rate outside the rate range would have to come forward and argue against the company's rates, and the company would be in the position of having to find proof of the situation.

It appears that I am electronically deficient.

Mr. Chairman: That has probably never appeared in Hansard before. I wonder if that is what the Watergate burglars called it.

Ms. Parrish: I am trying not to take this personally. Is that better? OK. It seems very appropriate that I was just discussing public hearings when this occurred.

The individual companies have to file for rates outside the rate range. As we said, that is pursuant to a public process in which all of the opinions, pro and con, would be heard.

Section 24 of the bill before you does deal with the Facility Association. In essence, the Facility Association rates, which are currently subject to approval by the superintendent of insurance, would now be subject to approval by the automobile insurance board.

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As the minister mentioned in his opening statement, the ministry will be proposing an amendment to the provisions that affect the Facility Association. In essence, what they will do is bring the Facility Association closer into the rate-range hearing that we discussed earlier, i.e., provide that the Facility Association must participate in the rate-range-setting process outlined in section 22. If they wish to be outside the rate range set by the board, they should apply under section 23.

In addition, the motion would continue to provide that all Facility Association rates that are outside of the classification system would still have to be approved by the board, because all Facility Association rates would have to be approved pursuant to a public process.

The bill also provides in section 25 for what we call a dividend review.

The dividends in question are dividends issued by mutual insurance companies. They are dividends paid out of surplus to the policyholders of the mutual insurance companies. It was felt that, consistent with covering all the components of the premium, dividends which are a component of the premium should be covered.

However, it was also felt that they were not appropriate for the industry-wide rate range and that they could be dealt with under a separate procedure that would allow the board to dispense with the public hearing where it was felt that there really was no issue to be dealt with and that it was all positive and in the public interest.

As the minister indicated in his opening statement, we will also be proposing amendments to that section in order to provide clarification of the intent of the section, to make it clear that it applies to mutual insurance companies and that it pertains only to dividends related to auto insurance.

The flow chart which we have just discussed and which you have been looking at really relates to the fully developed rate review system, that is, section 19 sets out the classification regulation and the board then takes the classification regulation and has an industry-wide rate-range sharing in which it considers a wide range of factors and sets rate ranges for all of the classification elements.

The question that also arises is what occurs during the transitional period, that is, the period of time from now until the time when the board has had the opportunity to take the classification regulation and set rate ranges and the companies have applied within the system. We call these the transitional provisions, and they are found in section 21 of the bill, commencing in subsection 4.

The transitional provisions provide that a company cannot charge in excess of the capped rate, which is, in essence, the April 23, 1987 rate that was charged for a particular risk by the insurance companies, with a 10 per cent reduction for young male drivers and taxis in the Facility Association.

The board, once established, may approve an increase to a company's individual capped rate, if that company goes to the board and applies to have its capped rate increased. The company must indicate why it wishes to have this rate increase and it must prove to the board that the rate it wishes to charge is just and reasonable and not excessive. The board at such a hearing should determine whether or not the capped rate should be increased and does have the power to decrease the capped rate or to vary the capped rate proposal that the insurance company may have made to the board. In addition, there is the provision for the Lieutenant Governor in Council to pass a regulation which can provide for an across-the-board increase in the capped rate.

That covers essentially the overview of part II. To put it bluntly, a picture is worth a thousand words. I think the chart shows essentially how the system would work. I would be pleased to respond to any questions the committee may have or to elaborate on any aspect which I did not cover sufficiently thoroughly.

Mr. Chairman: Thank you very much. Mr. Kanter.

Mr. Kanter: It does look like a fairly elaborate system, and I am wondering if you could give an estimate of the amount of time that would be required before we got to the point where some or most or all insurance

companies were using the rate range as set by the auto insurance board. I guess that was before we got down to the fifth box on the flow chart. How long do you think that might take?

Mr. Davies: I guess the answer to that would vary, depending on whether it is the first round through or whether it is an up and ongoing system.

Mr. Kanter: I am referring to the first.

Mr. Davies: I think the first round is very much conditioned on having the uniform classification system in place first as a starting point. As indicated in the minister's presentation earlier, it is anticipated that it would be held for public discussion until the end of March with the hope that it could be finalized and in place some time in the month of May, as early as possible in May.

Then there are a series of time periods for notices of public hearings and so on. I do not have that particular piece of paper in front of me, but I seem to recall that it would be in the latter portion of this calendar year, November or December. I would ask staff to correct me. That would be the approximate time.

Ms. Parrish: Yes, that would be right.

Mr. Kanter: If some companies, but not all, challenged the rate range, where would that leave the consumer? Would the consumer be able to purchase insurance from those that accepted the rates, but not others? Where would that leave both the consumers and the companies if some accepted the rates and others did not accept the rates, but rather appealed them?

Ms. Parrish: If I may respond to that, the rate range would be in effect between 60 and 120 days from the time it is set by the board, depending on how quickly the company would file. Companies that can file their rates within the rate range can commence using them as early as 60 days. So if they get up and running, they can be out selling their product to consumers.

If a company chooses to file outside the rate range, then the bill does provide that it can continue to use its current rates or lower rates pending the hearing. Then, at the hearing, the board would consider its proposal to have whatever rates it wished to have, but in addition, the board does have the power to lower retroactively its rates during this waiting period if the board is convinced that the reason the company filed outside the rate range was simply to delay implementation of the new rate range. That would be a fairly unusual situation, but it is available to the board if it felt there was a deliberate delay and just an effort to continue and not come into the new system.

Under normal circumstances, within 60 days the companies would simply apply and all of those companies would use their rates. Those who wished to apply outside the rate range would continue using their current rates or lower rates until the board had the opportunity to deal with their applications and set rates for their particular companies.

Mr. Swart: I have two or three questions I would like to ask. Why a rate range instead of a ceiling? The act provides, and in the minister's statement it is provided, that there will be a rate range or a rate which will be applied. Why is it a rate range? Why could there not just be a ceiling applied, leaving more elements of competition?

If you want the minister to answer, that may be a political question.

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Hon. R. F. Nixon: It says a rate or a rate range, and the principle is that it should not be excessive nor inadequate, which was already referred to by Ms. Parrish when she said if there is a sort of loss leader inadequacy in a particular range, presumably it would be paid for from some other revenue-producing automobile insurance. The concept was that it should be sufficient but not inadequate.

Mr. Swart: If some company felt that by certain procedures it could sell insurance much more cheaply than that, it would have to go through the process of applying for permission to do that, would it?

Ms. Rounding: Yes.

Mr. Swart: They would not automatically be able to say, "Through this new process, we can provide a cheaper rate"?

Hon. R. F. Nixon: That is right. They could say, "We are going to concentrate on"--let us say--"elderly farmers," which would be a very wise thing to do, and offer a rate that was lower than normal and apply for that rate. That would be a loss leader that would bring in a lot of very good business.

Mr. Swart: With elderly farmers, there would have to be a classification as such. I point out to you it is not a good analogy.

Hon. R. F. Nixon: You had better help me with this.

Ms. Rounding: I think the concept is, as the minister has described, the board, in setting a rate range system, is going to determine what premium dollars are necessary to run the entire system. Therefore, it is going to be looking to the issue of allocation of the relative amounts; that is, should this group pay relatively more than this other group within the principle of trying to get people to pay more or less what demand they put on the entire insurance pool? In order to do that, the board has to look at the rate range for that particular risk. Otherwise, if it had only ceilings, it has no benchmark to determine where else people may be paying too much money.

Companies that wish to apply to charge less may, frankly, have a somewhat easier time at hearings. The hearing does not necessarily have to be onerous if the company can demonstrate that it is able, through efficiency or whatever, to charge a good rate.

I guess the board is going to have to look at the reasons. There are also reasons for charging lower rates that may not bear up as well under scrutiny. For instance, you would not want to have a situation where people charge very low rates in order to squeeze out certain other insurance companies and then, when they have a monopoly on the market, raise the rate. You would have to look at the circumstances of the company and ensure that it was appropriate. That is the principle behind the rate range concept.

Mr. Swart: I feel that is a direct contradiction of what was said in the House many times, that the marketplace should decide. You are not even prepared to let the marketplace decide whether the rate should be reduced, let alone increased.

Mr. Weir: I think it is important not to lose sight of the importance of the integration between the premium rates charged and the underlying financial solvency and integrity of the insurance company. An inadequate rate could result in an insolvent insurance company; so I think the mechanism that is in there is a safety procedure so that rates cannot be depressed artificially to the point where there is a danger to consumers that the company may actually fail.

Mr. Swart: I recognize the validity in what you are saying. Does that mean you are going to be using this as a medium ensuring the viability of insurance companies and not going to do the other kind of checks to ensure? There are other ways, bad investments and so on, that they can also go bankrupt. I hope this does not mean that is what the purpose of this is.

Mr. Weir: We will be even more diligent in the other aspect of our investigations and inspections under the act, but this will be an integral part to assist us in maintaining that solvency.

Mr. Swart: Another question I could put with regard to how you expect to get the information from the insurance companies is, how long a time lag? Certainly, from your own insurance report, you realize the time lag there is now. We have called numerous times to see if it was possible yet to get the 1985 insurance report.

The latest one that has been published by your ministry is 1984. According to this insurance report, the total premiums in 1984 paid in Ontario auto insurance premiums were about \$2 billion. According to the Insurance Bureau of Canada in 1986, they were \$3 billion. It went up from \$2 billion to \$3 billion.

How are you going to get criteria to arrive at a sensible decision if the insurance companies are going to continue as they have done? The excuse is they do not have all the data yet to make a determination of what the rates should be.

Mr. Weir: We will be proposing to the government, which the minister alluded to, that there will be additional amendments to the Insurance Act that will enhance our ability and expand our ability to collect that information much more expeditiously than in the past. I do recognize your valid comment with regard to the superintendent's report. It is in the process of being made current.

Mr. Swart: How up-to-date do you expect the figure we will have by June, or the board will have at any time?

Mr. Weir: As far as my office is concerned, the board will be able to set its own parameters as to how expeditious and how up-to-date its information is. However, we propose to be current on a quarterly basis or a half-yearly basis in the future with insurance company statistics. We are putting computer systems in the various facilities in place to be able to have that information. That is an ongoing process that has been started on.

Mr. Swart: You expect that the insurance companies which control the decisions and which could not get the information for you in three years will now be able to--

Mr. Chairman: Mr. Swart, will you turn around and talk into the microphone, please? Hansard is having difficulty in preserving you for posterity.

Mr. Swart: I am sorry. Do you expect the insurance companies which to this time have been so inefficient that they have not been able to get data to you without at least a two-year lag or a three-year lag will, in fact, be able to provide the necessary data within three months because of what you are doing here?

Mr. Weir: The information in the superintendent's report should not be construed as my office or the ministry not having the information. It was a matter of delay in putting the information together and publishing it in the report form, and that is being addressed right now.

Mr. Swart: But we have been unable to get from your office, and this is the question, information on the total premiums that were paid in in 1985 or the total premiums that were paid in 1986. Even though we have asked for that piecemeal, we have been unable to get it.

Mr. Weir: I will take the matter under advisement, sir, and I will see if we have that in supply.

Mr. Swart: I want to go into this more fully at some other time.

Mr. Keyes: I have two questions I would like to ask. It is going to be the purpose of the review board to set that range in rates, but is there any indication in advance that the range in rate might provide sufficient leeway to allow for the concern Mr. Swart has made?

In other words, let us take a figure and say \$600 is the bottom of the range. Is the top of the range only going to be a 10 per cent leeway to make it \$660 or is it going to be 25 per cent to make it \$750, which then allows for greater fluctuation? Do you have any idea? There is nothing that would indicate that here. I realize it is the work of the board to do that.

Interjection: It is the board's responsibility to set that.

Mr. Keyes: The minister may have a comment on this, because that way, if in setting it they look as a mid-point being what they consider in their wisdom to be the break-even point but the rate they set allows below as well as above, then it can accommodate the other concern, rather than saying there is no bottom to it.

My other question is I understand the time lines are to be used for everything that is on here, but once it is in place, I could not quite see where it indicates--maybe it is right there very bluntly--whether it is annually or at the instigation of the insurers or the instigation of the review board. Is it annually automatically? The process may be extremely long, so will these rates last for six months, 18 months or until someone else says they cannot live with them?

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Ms. Parrish: For an industry-wide hearing that would involve the entire industry rate range, the board may initiate the hearing or the minister may order the hearing. The minister may order the board to have a hearing or it may decide on its own initiative.

The kinds of evidence it would probably look at would be the extent to which large numbers of companies are applying outside the rate range, which would be an indication that the companies had outgrown the rate range, that

they were not serving the public. In addition, there would probably be correspondence from the public. And then indeed the minister would have the ability to order a rate range hearing.

There is no specific time period provided in the bill to give the board flexibility, given the circumstances. Individual companies that wish to file outside the rate range will have the ability to apply and to have a hearing, so they can trigger their own hearings, but for the rate range it is at the board's discretion. It would probably get correspondence and, having received the correspondence, decide whether it was appropriate to have the rate range hearing.

Ms. Poole: If an insurer applies or wishes to apply to charge a rate outside the rate range, is the insurer obligated in any way to give notice to its policyholders?

Ms. Parrish: The board has the ability to decide what is adequate notice in any circumstance and it has a rule-making power, so it might create a rule that is sort of generic, "In all cases, you should publish an ad in the paper" that says this or that, or the board can determine in a case-by-case situation what constitutes adequate notice. The board has the ability to decide what constitutes adequate public notice for any particular hearing before the board.

Ms. Poole: Would this be covered by regulation or just by precedent set by the board?

Ms. Parrish: The board could decide on a case-by-case basis, i.e., "For this kind of application, we consider this kind of notice to be what we would require," or it can create rules. There is a section in the act that allows the board to have its own rules, which it would then make public. They are not regulations, but they would be rules of the board that, in all cases where you have an individual company application, you should do X or Y when putting the application forward.

It can do it either way. It is likely that over time it will develop specific rules that say, "Do it this way," so that people will know when they make an application what is required of them.

Mr. Runciman: I have the same concern as a number of members about the timing of this process. If you are looking at industry-wide hearings, you are looking at a rather lengthy exercise. Someone mentioned the Ontario Municipal Board, and those of us who have dealt with the Ontario Municipal Board know how long you can wait for some of its decisions to be rendered.

I am just wondering about the fact that if you are going into industry-wide hearings and you are looking at, say, a six-month experience, which the superintendent alluded to when he said they are going to try to have six-month figures or even quarterly figures, I am just wondering how fair that is to consumers or to the insurance companies when you have to go through that kind of an exercise.

Also, I do not see any provision in here for interim increases. If you get into an industry-wide hearing down the road and we are in tough economic circumstances like we were a number of years ago with the rapidly escalating interest rates and so on and you have to go through this rather lengthy industry-wide exercise, is there any provision to allow for interim increases during that process?

Ms. Rounding: Earlier I alluded to the fact that the board proceeds by order and it may make interim orders. So it could be that halfway through a hearing there may be the need to make an interim decision at this stage pending the final determination of the matter. There is provision under subsection 13(4) to provide for that.

Mr. Runciman: One other question: I do not know how significant this is, but section 25 requires mutual companies to obtain board approval for a dividend issue and it indicates that this could be determined without a hearing. What if a company disagrees with that decision? It seems rather arbitrary. Do they simply have to live with it? Is that the way we should understand that section?

Ms. Parrish: I think the section is intended to mean that if the board accedes and there does not appear to be an issue to discuss, the board may dispense with the public hearing.

Mr. Runciman: This is if they want to issue dividends and there is no hearing.

Ms. Parrish: Yes.

Mr. Runciman: OK.

Ms. Parrish: It may not be appropriate to have a hearing in the sense that there may be no issues, that no one is disputing it and everyone agrees. Sometimes there are specific issues that arise related to dividends such as who is entitled to the dividend, how far back did the surplus get accumulated, and therefore who among all the policyholders are entitled and so on. But often it is very straightforward and to have the hearing is not to accomplish much.

Mr. Runciman: How would the board know if there were concerns out there about the dividend issue?

Ms. Parrish: It would have to make a judgement as to the evidence brought before it. It may wish to waive. It may be satisfied or it may feel there is a question and require a public hearing.

Mr. Runciman: What prompted the inclusion of that section?

Ms. Parrish: Initially, in Bill 110 which was before the Legislature prior to this bill, dividends were included within the rate range system. It was difficult to deal with them within that system because what normally happens on a dividend is that the surplus accumulates in the mutual company for a certain period of time, say three or four years, and then it is paid out in a lump sum. It is difficult to fit that kind of process into the rate range process, which is usually sort of based on your annual premium and so on.

It was felt that although we should not just forget about this, because it is part of the rate range system it was inappropriate to try to shoehorn it into the rate range system. That was the rationale for including it within the board's jurisdiction, but having a somewhat different procedure for it than for other aspects of the rate.

Mr. Runciman: I am just wondering why you would want to control it, if you will, in the sense that when you are reviewing a request for industry-wide rate increases, this is an element you are going to be looking at in any event. I am just wondering why it is incorporated.

Ms. Parrish: Why we would--

Mr. Runciman: If you are determining a rate of increase, this is just one component of the picture you are going to be looking at. Why include this element of control over those dividends?

Ms. Parrish: It is true that it would be one part of the overall rate, but it was felt that it was difficult to deal with dividends within the overall rate range. Usually what happens is the surplus accumulates and--

Interjection.

Ms. Parrish: Yes. The reason to deal at all--I guess there is an argument to maybe just exempt them totally from the system. I think the feeling was that they are a component of the range. They are a part of the rate. If you pay \$500 and then you get \$25 back, you have paid essentially a certain premium. It created an uneven playing field or uneven regulation if you did not look at the entire rate. That was the rationale behind looking at all components of the rate, no matter where they came from, so that you would have a comprehensive system.

Mr. J. M. Johnson: I am not sure I am on line but I will try. When we set a range of rates, is any consideration given to the bottom line which must be satisfactory to the consumer? People buy car insurance for the simple reason that the government says they have to. The second reason is that if they have an accident, they need money to repair the cars.

1550

In rural Ontario, as the minister well knows, the reputation of a company is quite often built, not so much on its low rates as the satisfaction that people achieve from that company when they have an accident. If we set the rate schedules so close that there is no consideration given and every company has basically the same rate, then what is the advantage to the company that has provided years of good service? You can go to a repair shop and get one price and go to another repair shop and it might be much higher but more realistic, and even in the estimation of replacement the same thing applies. What protection does the consumer have when there is an accident if the rates are set so close that there is no flexibility?

Hon. R. F. Nixon: I feel that the protection of the competition that remains in the marketplace--we hope and trust and expect there will be a variety of companies offering service.

You mentioned rural areas, where the mutual companies have recently expanded their coverage and they are in competition, I suppose, with some of the much larger companies and the standard underwriters as well. We think the companies will be able to continue to provide good service and perhaps some of them will replace a reputation for, let us say, outstanding service of the type you are talking about with a reputation for slightly lower premiums, and there is a range that is permitted there.

There is also the possibility for any company that wants to charge a bit more for the provision of specialized services to apply for the right to do so.

Mr. J. M. Johnson: I will leave it at that, but that is a concern.

Ms. Hart: Following up on something Mr. Runciman said, he was

talking about an interim rate, pending a long hearing. Is there anything in section 21, which is the prohibition section, that permits a company to charge a rate under an interim order?

Mr. Chairman: Unless otherwise permitted under this act. Would that not be the case?

Ms. Parrish: Section 21 provides that you cannot charge a rate unless the rate has been approved by the board, and if the interim rate has been ordered by the board then it has been approved by the board, pursuant to section 22 or section 23. It makes a final order or an interim order under subsection 13(4).

Ms. Hart: The reason I ask that question is that I have been before tribunals that do not consider an interim order to be an order. That is why I raised it.

Ms. Rounding: What do they consider it to be?

Ms. Hart: Very good question. Something else.

Ms. Rounding: We could look into that, but I think the qualification in section 13, as it is now, does refer to interim orders, pending a final decision of the matter. Because the final decision has not been made, I suppose it is "an interim order," not "an order."

Ms. Hart: I wish you would look into it, because my concern is that a company may make a very valid case to have an interim rate and then it cannot charge it because it is prohibited under the act.

Ms. Rounding: We will look into that. Thank you.

Mr. Chairman: Mr. Swart, I would just tell you that, in the words of the immortal bard Robert Frost, we have miles to go before we sleep. We do have time tomorrow afternoon, though, if that is appropriate to ministry staff and also to the members, to deal further with this. I just want to let you know that before we go on questioning on this item.

Is that agreeable to the committee, and perhaps more important, the staff? I understand the staff are available; is it agreeable to the members? Our list for tomorrow, if you look at your agenda, takes us to 11:30 a.m., assuming that we run the meeting in a timely fashion, so we could continue in the afternoon. If that is the case, then we can continue to question on this point. Is it the consensus of the committee that we do that?

Mr. Swart: That is fine if it is necessary, and it may well be. I would like to follow with one question that was not asked by Mr. Runciman earlier, that seems appropriate. I am sure there would have been estimates made on what this was going to cost. What would the actual annual cost of the operating of the board, the hearings, the whole thing, be?

Hon. R. F. Nixon: I think they are going to be determined largely by experience. Particularly during this first year, when there are going to be extensive industry-wide hearings on the classification and so on, the cost of having hearings, which I trust will not all be held in Toronto, may be larger than ordinary.

My own feeling, however, is that once the industry and the consumers get

used to the utilization of this board it will simmer down to fairly routine procedures. I think the size of the board is quite flexible with up to nine members. We are certainly contemplating appointing a large enough board of members accepting a per diem so that the hearings are going to be held extensively and everybody who has an opportunity or a desire will be heard. I would think, and I trust this will be our experience, that after the board has established a classification rate and range of rates, the size of the board and the expense of its operation will reduce.

Mr. Swart: You have had no estimate given to you on what the expected costs would be on this?

Hon. R. F. Nixon: No, I have not had one in the way you describe it. For one thing, there are some things still to be determined. I think it had to do with something Mr. Runciman said, but it seems to me over the years we should be able to develop a range of detailed information, factual information that should make this jurisdiction really a leader in making projections in costs and that should be extremely valuable and useful. I hope that is so.

The provision, for example, of the computer services that should go along with accumulating and accessing this information might be quite expensive in the first few years as we get the hardware and the knowledge to make use of it.

Mr. Swart: It seems rather strange to me that there would have been no estimate before it was first proposed on what it might cost, given certain other boards, such as the Ontario Energy Board hearings on gas rates and hydro rates and so on. Their costs are quite high when they are dealing, in fact, only with one company, and where we have boards dealing with Bell telephone rate increases, granted that is a federal board, not a provincial board, but Bell Canada itself spent \$2 million in one of those hearings, according to its own statements. It is strange that we would not have some indication of what this costs. If you are dealing with 200 companies or 179 companies, it seems to me that the acquisition of that information would be pretty expensive; the thoroughness of the investigation, if this is going to have meaning, and the information would be fairly costly. However, you have no indication of that.

Hon. R. F. Nixon: Let me say further, since I think you make a good point, we have considered the cost but we do not have sort of an assessment of that that I am prepared to table at this time. I might give that some further consideration, but we know, for example, this year what our timetable, albeit a tentative timetable, is by way of these hearings, the establishment of a draft regulation or classification, the time frame for hearing submissions on that draft regulation, hopefully then the finalization of the regulation and promulgation. The board, we hope, will be appointed as soon as this bill gets royal assent or soon after, if that occurs, and during this year I think we could come up with some sort of ball-park figure that might be of some interest, even if it were not as specific as I or the members of the committee might expect. I will see what I can do with that.

1600

Mr. Swart: I suppose at this time that you have no information on what extra cost there may be to the insurers as well on providing the additional information, which, of course, is going to have to come out of premiums one way or another, whereas the costs of the board will probably come out of taxes.

Mr. Chairman: Before we go to that, I think Mr. Runciman had a supplementary on your earlier question.

Mr. Runciman: I think Mr. Swart is going on the same lines. I was wondering about the breakdown and who is ultimately going to pay these costs. Perhaps the government is not as concerned because, ultimately, as I read section 10, anything not recovered through fees or cost awards is going to come out of assessments to insurers.

Hon. R. F. Nixon: It is the reading of the bill that it may come out of the assessment. My own feeling probably supports your concerns, Mr. Runciman, in that the provision of this service should be a charge on those people providing.

Mr. Swart: I have a few more questions I would like to ask as well, but just to conclude this, in the total expenses relative to auto insurance in Ontario--total expenses, not rates--there will be some additional cost to the government under a rate review board and there will be some additional cost to insurers in providing the kind of information it will be necessary for the board to consider. With respect to the total expenses, whether \$5 million or \$2 million or \$25 million, some additional costs will have to be borne by the people of this province due to a rate review board.

Hon. R. F. Nixon: I believe that is correct. With the Legislature confirming the principle of rate review as opposed to alternatives, I think it is quite understandable that with the Legislature's instruction, this board will be set up with certain costs in order to do an appropriate job. I suppose it will be my responsibility, getting as much advice as I can, as to who is going to pay those costs. My own feeling is that it ought to come from that segment of the community which uses the service.

Mr. Swart: It would be a bit facetious to say, of course, that Mr. Kwinter's prediction of October 1986--it will include not only the additional cost of operating the board and expenses to insurers, but substantial rate increases, so that the insurance companies will be able to have sufficient income.

Hon. R. F. Nixon: Of course, we are making a commitment to fairness and equity, which I know you support.

Mr. Swart: The question I wanted to pursue with you was that I understand there is no limitation on the number of requests and the timing of requests. If there is a request by the insurance industry for a hearing, a hearing will be granted, even though there may have been one six months prior to that?

Ms. Rounding: It depends on what type of hearing. For an industry-wide hearing, it is only upon the motion of the minister or the board. If there had just been an industry-wide hearing and an insurer comes in and says, "I do not like that; I want you to look at it again," the board has that discretion to wait until it feels it is suitable to review it again.

In the case of an individual insurer, they--

Mr. Swart: The board has the discretion, but if determines there should be another hearing six months after, it may be held?

Ms. Rounding: Yes, that is correct.

Mr. Swart: Or even three months after, it may be held?

Ms. Rounding: Yes.

Mr. Swart: They are not like consumer gas rates which are set for a year? This is not the case?

Ms. Rounding: No, that is correct.

In the case of an individual insurer, they can apply to the board. But in that case, under subsection 16(4), which I alluded to before, there is an alternative funding measure. Again, it is like a user fee, as the minister has just explained. If an insurer is coming in all the time and making an application, they are the ones that are using the system and therefore they can pay. So the board's cost could be recovered under subsection 16(4) as well as under an assessment under section 10; there are those two measures that could be used to recover the board's costs.

Mr. Swart: I understand that.

I have a final question at this time. I hope, Mr. Chairman, that later, maybe tomorrow, we will have an opportunity to ask a variety of questions of the superintendent of insurance. I would like to have the opportunity to do that, not just under these particular headings.

But what thoroughness do you anticipate there will have to be in the total examination of the insurance industry? When an insurance industry operates two or three sections--property insurance, automobile insurance, liability insurance, various types of insurance--in some of those operations there is overlapping at the present time with regard to investments and a variety of things. What sort of policing is there going to be so that, with 190 companies, you will make sure that none of these hidden costs are transferred from one to another so that the books as far as auto insurance are concerned look as though they have a great need?

May I just add to that question that certainly--and I have appeared before them at the hearings on natural gas, hydro and so on--those particular companies have to go into very extensive detail, and their operations are much more simple in the sense that they sell only one product. If it takes the Ontario Energy Board, on the average, 20 to 25 hearing days for one company--Ontario Hydro, Consumers' Gas, Union Gas, Inter-City Gas--when they sell one product, do you anticipate that the hearings are not going to be extremely lengthy and extremely costly, if they are going to do the thorough job which would appear to be necessary?

Mr. Weir: I would not want to comment on the cost or the length of the hearings, because I think that remains, but the minister did indicate in his opening address that it is our intention to enhance the access by the ministry to information held by insurance companies. And both the ministry and the rate board would be working in concert to collect that information in a uniform, expeditious and cost-effective manner, and there would be sharing of information between the ministry and the rate board. I am certain that an arrangement would be worked out to gather the appropriate information to preclude and to address the sort of cross-subsidization that you are alluding to.

Mr. Swart: But you would be aware, I am sure, that under the hearings which are held, for instance, on Consumers' Gas (inaudible) there are great arguments between those who are proposing the increase and those who are objecting to it. I think there will be industrial users of gas--in fact, they tore some shreds in the figures provided by Consumers' Gas. Are you, with 175 companies, able to do that kind of in-depth investigation?

Ms. Rounding: I think there is a difference here, though, from the Ontario Energy Board, and it was one of the reasons we did go to looking at an industry-wide hearing rather than on a company-by-company basis. I agree with you that I think the first industry-wide hearing will be a lengthy, complicated hearing. It is the first time through and they are going to be setting ranges of rates for each classification or each coverage of risk exposure.

But after that is done, it is going to be more amendments to it. Once that is established, I do not think it will have to be a major hearing to make those changes. The individual company hearings are quite different from Consumers' Gas hearings in that they come before the board only if they want to file outside of the range. So there is one narrow issue that will be before the board--why do they want to file outside of the range and how can they justify it?--rather than looking at the whole financial picture of the gas company and its rate of return.

Mr. Swart: I am referring primarily in my question to the industry-wide hearing. But surely the figures which are going to be provided by the industry are going to be a compilation, if it is done by the insurance advisory organization, the Insurance Bureau of Canada, of all of the individual insurance companies as far as their needs go. Are you not going to look at any of the individual companies to see, in effect, if those figures which they have provided are correct? If so, are you not going to have to go into all of them? I am suggesting it is a mammoth job if it is going to be done thoroughly and if it is going to be anything other than just a façade.

1610

Ms. Rounding: Maybe the others would like to respond to that. I think that also is one of the reasons for the monitoring powers under section 12 that we were talking about in terms of gathering that information, but I think it would be up to the board as to the extent it goes into the individual companies.

Ms. Parrish: I think as well, sir, that when we get into part III, you will see there are very specific regulation-making powers that allow for regulations that say individual companies must provide certain information. The information must be attested to, say, by actuaries or accountants so that the board is certain it is getting accurate professional information and not just a marketing of a certain position, so that there are regulation-making powers that can provide for the exact information the board needs to have and so that in addition, in the course of its hearing, it can demand certain information. There are actual regulation-making powers that can set out the information the board requires and the attestation that would be necessary to ensure the information is independent of the companies and is professionally attested to.

Mr. Swart: I understand that. I understand the necessity for it.

Mr. Chairman: I wonder if perhaps we could look at part III and then you can continue questioning.

Mr. Swart: I will conclude with this. I understand that and understand the need for all that. I also understand that the Ontario Energy Board requires the same thing from Consumers' Gas. I also understand that in those states in the United States where they have a consumers' advocate, they have as much money to fight an application for an increase and whatever it may be as do the companies that are promoting it.

Who is going to be delving into all these figures to ensure they are accurate because even with Consumers' Gas--there is all this information for these advocacy groups in the United States. They are not actually groups; they are state consumers' advocates. They will have all those details and they go in and have the right to tear them to shreds if they wish. They claim that if they are going to make a fair result, they have to do it that way. Is that not in itself going to be a simply horrendous job, and if it is not done, is it going to be effective in any way?

Ms. Parrish: I think we are returning to the issue of intervener funding and whether that is necessary. I point out that there is the ability of the superintendent of insurance or his representatives to appear before the board to make a case on a public policy basis in addition to any other persons who may wish to appear before the board, and the board itself has the ability to obtain the information it may need to ascertain the truth of statements put before it.

Mr. Swart: Let us pursue that matter at a further point.

Mr. Chairman: Perhaps we can move on to part III.

Ms. Rounding: The third part of the act deals primarily with enforcement and regulations. The section dealing with offences and penalties is found under section 26, which deals with the remedies available to prosecute individuals or corporations that have contravened the act, its regulations or any of its orders. The maximum penalty for an individual is \$25,000 and for a corporation \$100,000.

The section also provides that any officer or director of a corporation or the Facility Association who contributes to the decision-making process that results in the contravention of the act is liable for the offence, whether or not the corporation or the Facility Association is prosecuted. This is consistent with some of the ministry's recent financial legislation which is placing a high standard of responsibility on corporate directors and officers.

The board must consent to any prosecution that is laid and this is in fact a safeguard against some private prosecutions that might not be justifiable.

Subsection 26(4) provides for an expansion of the six-month limitation period that is provided for under the Provincial Offences Act to a two-year period. This is considered to be necessary as it often takes a longer period of time for financial information to come to light in order to find enough evidence to support an offence.

Section 27 deals with policy statements. This section provides that the superintendent of insurance may issue policy statements with the approval of the Lieutenant Governor in Council. The statements will be gazetted, published in the Ontario Gazette, and the board must have regard to or consider the statements when making its orders. This means that the board is not bound by the policy statements, but it must have regard, consider them. This is a power that is very similar to a power under the Planning Act that applies to the Ontario Municipal Board.

Since the minister has indicated that it is proposed that the board will now be assuming jurisdiction over modifications to the classification system, an amendment is being proposed to allow policy statements to be issued with regard to the classification system, as well as to rates and dividends, as it now states.

References to the board are provided for in section 28. This provides that the Lieutenant Governor in Council can make a reference to the board if it is believed that a public hearing is required to examine any automobile insurance related issues. This creates a cost-effective public forum for investigating and recommending solutions on particular issues.

Section 29 is a regulation-making power section, and in that section there are a number of powers that are listed. Several of these regulation-making powers relate to the classification system, its implementation and its procedures. There is also a proposed amendment which will clarify the scope of the classification system, that is, who is covered by the classification system.

Initially, as the minister has indicated, the classification system will be prescribed by regulation, but when the board starts to make modifications to it, it will require a modification or an amendment to the regulation-making power, to allow the board to revise the classification system by one of its orders rather than through a Lieutenant Governor in Council regulation.

There are several regulation-making powers that are related to the gathering of information to ensure its usefulness and accuracy. My colleague Ms. Parrish has already made reference to these provisions in a response to Mr. Swart.

There are also some standard provisions, regulation-making power provisions, providing for fees and for forms and affidavits and declarations that will be set out in the regulations. There is also a power that is made retroactive to January 1, 1988, that permits insurers to increase their capped rates by a prescribed amount or a prescribed percentage set out in the regulation. An increase of 4.5 per cent was announced by the minister in his second reading statement.

The final sections of the bill, sections 30, 31 and 32, deal with the impact of this bill on other statutes or of other statutes on this bill. Section 30 indicates that the Regulations Act does not apply to the rules or the orders of the board, but, as it is proposed that the board will take over modification of the classification system, an amendment is proposed to this section which would make it clear that the classification system would still be required to be published in the Ontario Gazette even though officially it would not be a regulation of the Lieutenant Governor in Council any more.

Section 31 indicates that if there is any conflict with Bill 2 and any other act, this act will prevail except in the case of the Human Rights Code.

Section 32, as presently drafted, makes coincidental amendments to the Compulsory Automobile Insurance Act, which are now required because the board will be approving the Facility Association rates instead of the superintendent of insurance, as my colleague Ms. Parrish has discussed under part II. This section will now require further amendment because of the changes Ms. Parrish has alluded to that are being proposed to section 24.

It is also proposed that a coincidental amendment to the Human Rights Code be added as a subsection to section 32 to ensure that age, sex, marital or family status or handicap cannot be used in either the selection of the risk or the classification of any automobile insurance risk. I think that takes care of the question Mr. Swart had in that regard, with regard to the selection of automobile insurance risk.

Finally, under section 33, the act will come into force on a date to be named by proclamation of the Lieutenant Governor.

That is a summary of Part III. I would be happy to entertain any questions.

1620

Mr. Chairman: Before we go on to questions, we are fast approaching 4:30. We can sit until 4:30 or we can go until five o'clock, but I just thought I would get the view of the committee as to whether you wish to continue on until five and continue again at two tomorrow on the same vein or whether you wish to sit until 4:30. I think we should let the people on staff know so that if they have to make any calls, we can accommodate them.

Mr. Swart: I suggest that we continue on to five, because I think we can finish this particular section of it by five o'clock. I have a number of questions I would like to ask the superintendent of insurance, but they are not particularly divided up into these sections or anything of that nature, and they can go tomorrow. We have also received the draft of proposed classifications, or at least a white paper on them, and we could have the opportunity to read those overnight. I think we could finish this section off and stay until five.

Mr. Chairman: Is there consensus on that point, that we continue until five? I see no objection. That is fine.

Are there any questions now?

Mr. Swart: I have two; one may develop into more than that. The first one is on section 27. I am not sure whether this should go to the superintendent of insurance. The minister may want to answer it. What sort of policy statement would you expect to be made? When I read the section, it says, "The superintendent, with the approval of the Lieutenant Governor in Council, may issue policy statements on matters related to automobile insurance rates and dividends."

We know we are going to have a classification system set up ahead of time. We know the board is going to be determining the rates. Is it anticipated that the government might say there will be permitted only two per cent profit this particular year and then the board would have to give consideration to that? Just what are the implications of this and what would the kind of policy statement be?

Hon. R. F. Nixon: I think what was considered in this particular subsection is the possibility of something occurring, unanticipated at the present time, of a policy nature such as what we have now decided to do by amendment in the act; that is, excluding any possibility of a rate structure based on age, sex or marital status. It is possible that something--I cannot say similar to that, but of general application in the rate structure--might come forward. This allows the government, through the superintendent, to advise the board as to the policy in this regard.

It is certainly not the intention of the government to direct this tribunal, which is independent, in the discharge of its regular day-to-day duties or to dictate or to try to dictate its decision in matters other than broad policy matters similar to those that I have just described.

Mr. Swart: It is put in there as a catch-all in case you want to use it. Is that what I am hearing?

Hon. R. F. Nixon: Yes.

Mr. Swart: There certainly is a lot of power that is going to be given to the board, especially after the first rates have been set. There is also the other power that will be delegated with regard to the setting of the rates and classifications and so on, so this is just sort of a catch-all clause.

The other question I have is with regard to writing in. Obviously, I would approve the section on discrimination with regard to age, sex, marital status and handicap. You talk about the selection. I am not sure I understand what you are saying. Would there be a prohibition against selective rejection by insurance companies?

Ms. Rounding: Yes, that is correct.

Mr. Swart: In other words, if some young man 18 years of age went in and said, "I want to get insurance," they would not be able to refuse him insurance?

Ms. Rounding: That is right. Presently, section 21 of the Human Rights Code makes an exemption for certain types of insurance, including automobile insurance, and it in fact does allow discrimination on those bases. What this would do is prevent not only the discrimination in terms of the system itself, but in terms of their right to have it written. Previously, they could just go in and say, "Well, I won't write that risk." Therefore, they are in essence discriminating.

Mr. Swart: Now they have to come up with another excuse.

Ms. Rounding: Yes.

Mr. Weir: They would not be entitled to ask the age of the applicant, so it would not take part in their underwriting decision. The application form will not, for example, say, "What is your age?" So on that ground, they would not be able to underwrite on the basis of age.

Mr. Swart: If I walk into an insurance broker, he knows I am not going to be under 25 years of age. That is pretty obvious. If an 18-year-old walks in, he can tell that person is not over 25 years of age.

Hon. R. F. Nixon: He can ask him how many years driving experience he has had.

Mr. Swart: He can ask him how many years driving experience he can have.

Hon. R. F. Nixon: Even if you are your age or even mine and we were starting to drive--

Mr. Swart: You should perhaps rephrase that; your age.

Hon. R. F. Nixon: Oh well, even mine.

There would still be what would now be seen as somewhat of a penalty for, let us say, getting an operator's licence at a mature age because you would pay the rate consonant with having no experience; that is driving experience I am referring to.

Mr. Swart: I understand what you are saying. I have some question about how it can work out, because for people the insurers do not want to insure, they are going to find some way of not insuring those people. You may have some people who will take it a bit farther but you may have other people, the majority, who will not.

When you have the Facility Association under this, it will apply to it as well. How are you going to ensure that if they go to Facility Association, they will get it as cheaply, provided they have the same driving record, as they would from other--

Mr. Chairman: Mr. Swart, we are losing your--

Mr. Swart: Some people think that would be an advantage.

Interjections.

Mr. Swart: Next time, seat me over on this side.

Mr. Chairman: We are going to give you a portable microphone next time.

Mr. Swart: Will the Facility Association have to abide by the antidiscrimination in exactly the same way? If there is a category set for males, it will be adults, there will not be any category for males under 25. They must provide that.

Hon. R. F. Nixon: Yes, it will have to, but I would like Ms. Parrish to say something about it.

Ms. Parrish: The Facility Association will use the same classification system as everyone else. There will be no difference in that respect.

As to what the rate will be that the Facility will charge, that will be determined by the board. The board will decide what Facility Association rates should be. That is not something that we decide, either through the classification system or through any other mechanism, but they use the same system and they do not have a rate for young men under the classification system. They would have rates for inexperienced drivers, drivers who have lots

of accidents and drivers who do not, but they will not have any choice, they will not have a box in which to put a so-called male driver or female driver.

Mr. Swart: May I suggest that the young male drivers will be all ending up in Facility? That may not be any great disadvantage if the rates are no higher and all the insurance companies have to divide up the risk there, but all the insurance companies are not in Facility at the present time, are they?

Ms. Parrish: They all have to contribute to the costs of Facility and to underwrite its losses if Facility has losses. There are certain companies which are carriers for the Facility Association, but all companies writing automobile insurance pay their proportionate cost of the loss of Facility if there is a loss.

Mr. Swart: I will just conclude with this: I fail to see how an insurance company, if the risk is three times as high, on average, for a young male--recognizing, of course, the principle that many of those young drivers are just as good drivers as mature drivers, and again, we support this--is not going to take whatever steps it can to see that it is not insuring young males. You have a proposed clause here which will say that insurance companies cannot be selective, but the enforcement of that will be, I suggest to you, like in many other areas--the drinking age, for instance--is going to be next to impossible and they will end up in the Facility Association.

Ms. Parrish: I think this amendment does offer the best legal remedy one could propose. I think that is the best I can give you.

Mr. Swart: Again, this skirts around to cost, to the policing of this. If it is going to be effective with 175 companies, you are going to have to police it. You are going to have to have hordes of staff to do it.

Mr. J. B. Nixon: In addition to the legal remedy proposed in part III of the bill, you should be aware that right now the Facility charges to individual insurance company participants very inversely with the amount of business they send to the Facility. If you send very little business to the Facility because you are picking it up at market rates, then your contribution to the Facility goes down. But if you send a lot there because you do not want to write the young, male drivers, then your contribution to the Facility goes way up. I suggest that is a change that was made last year in response to the difficult problems we all saw in the Facility.

Mr. Swart: I am aware of that, of course, but I am also aware that it is not sufficient at the present time. Losses which are assessed to them are not sufficient to counterbalance the saving they make by not ensuring them.

Mr. J. B. Nixon: Maybe that could be looked at but it is under another bill that will be dealt with.

Mr. Chairman: We seem to have come to a pause. I understood we were going to go on until 5 p.m. We can either adjourn at 4:30 or go on to the next item, which is the deputy minister introducing the classification regulation. Perhaps you want an opportunity to review that overnight. Is that a matter of consensus?

Mr. Swart: I think that is a good idea.

Mr. Chairman: In light of that, unless there are further questions, we will stand adjourned until 10 a.m. tomorrow morning. See you all then.

The committee adjourned at 4:31 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ONTARIO AUTOMOBILE INSURANCE BOARD ACT

TUESDAY, JANUARY 12, 1988

Morning Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

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Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

McGuinty, Dalton J. (Ottawa South L) for Mr. Chiarelli

Swart, Mel (Welland-Thorold NDP) for Mr. Hampton

Clerk: Mellor, Lynn

Witnesses:

From the Ministry of Financial Institutions:

Nixon, J. Bradford, Parliamentary Assistant to the Minister of Financial
Institutions (York Mills L)

From the Consumers' Association of Canada (Ontario):

Anderson, Helen, Co-Chairman, Insurance Committee

Dunn, David, Committee Member, Insurance Committee

Delaney, Tom, Co-Chairman, Insurance Committee

From the Toronto Taxicab Brokerages Association:

Tory, J. H., Legal Counsel; with Tory, Tory, DesLauriers and Binnington
Hadbavny, Joseph, Chairman

From State Farm Mutual Automobile Insurance Co.:

Frizzell, Ronald J., Automobile Manager for Canada, Canadian Office

Fraser, F. Clifford, Deputy Regional Vice-President, Canadian Office

Temple, Carla S., Legal Counsel, Corporate Headquarters

Lehmann, Steven G., Actuary, Corporate Headquarters

From the Automobile Protection Association:

Gray, Jeffrey D., Legal Counsel; with Silverstein and Gray

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, January 12, 1988

The committee met at 10:12 a.m. in room 151.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT
(continued)

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

Mr. Chairman: Regarding Mr. Kwinter's attendance here, he is not available next week on dates when we are here and he is away the week after, so unless you have further suggestions, Mr. Swart, we may not be able to have the pleasure of his attendance. I am going to go on to the next point, and then you can speak to that if you want to.

The Saskatchewan group are deciding whether or not they should come. There may be some political difficulties. They are checking with their higher ups in that regard. I am advised by the clerk that the only date they are available is February 1, which is, of course, the first day of the week that we had set aside for clause-by-clause consideration, but we may be able to fit them in if they are able to come and that is the only date when they are able to come. We are not certain what date the brokers can be here. We should know that today or tomorrow.

Just for purposes of the entire committee, those who will be travelling with us and those who perhaps cannot make it and will be arranging for substitutes, which you should do through the clerk in advance, Tuesday afternoon we will be leaving here for Ottawa, and we will have an evening sitting in Ottawa. That is a little different than what we had originally thought. The following Monday, we will be leaving again in the afternoon, and we will be sitting in the evening in Windsor, so if you want to make those notes just for your own convenience.

Mr. Swart: With regard to the appearance of Mr. Kwinter, is it possible that even later this week we can fit him in, on Wednesday or perhaps on Thursday, if he is going to be away the following week? Was that pursued?

Mr. Chairman: The information I have from the clerk is as stated, that the days that we are here, Mr. Kwinter cannot appear. Is that correct?

Mr. Swart: I understood that was next week, is that right?

Mr. Chairman: Yes.

Mr. Swart: Is that including this week too?

Mr. Chairman: Yes, this week as well. Then the following week, Mr. Kwinter is going to be away.

Mr. Swart: I do not think we need him here for any great length of time. Is it possible on some of those days before we leave to go to Ottawa--where we have an evening, we probably will not be leaving until afternoon--that we could have a short session and have him here at that time?

Mr. Chairman: We could certainly ask the clerk to look into that. I think the reason for us leaving on the Tuesday late is because of caucus. If you wish, we can have the clerk look into that aspect of it.

Clerk of the Committee: I will check morning availability too.

Mr. Chairman: Perhaps morning availability, she can check that as well.

Mr. Swart: Yes, that is what I mean.

Mr. Chairman: We can do that, if you like, and we will report back.

Now, having gotten some of the housekeeping details out of the way, you have before you a brief from the Consumers' Association of Canada. We apologize. Are Helen Anderson and Tom Delaney here? Would you like to come forward? If you have not been here before, we would ask you, first of all, to identify yourselves for purposes of not only the normal Hansard, if I can call it that, but also for the electronic Hansard. You can be seated. If there are other people as well coming forward, perhaps they could identify themselves too. It is Mrs. Anderson, is it? We had slated a half an hour for both your presentation and questions. I would hope that your presentation would take only until about 10:15 a.m. so it would allow members--

Mr. Swart: It is 10:20 a.m. now.

Mr. Chairman: I beg your pardon. We started a little late. All right, 10:30 a.m., and then we would have until 10:45 a.m. for members to ask questions with regard to your brief. If you would identify each of the members first for Hansard. You do not have to stand up. We all sit in this committee. Politicians think better when they are sitting.

Mr. Swart: Not only that, the microphones are there.

Mr. Chairman: That is right. If you would identify the people you have with you and then whoever is going to make the presentation could proceed.

Mrs. Anderson: I will. On my far right, Angela Willson. Next to me, David Dunn, and on my left, Tom Delaney.

Mr. Chairman: Thank you. Would you like to proceed?

Mrs. Anderson: I will proceed. Right.

CONSUMERS' ASSOCIATION OF CANADA

Mrs. Anderson: The president of our association, Peggy Smith, who lives in Sault Ste. Marie, sends her regrets for not being here this morning. I have asked David to speak to our presentation.

Mr. Dunn: The Consumers' Association of Canada congratulates the government on Bill 2, establishing an independent Ontario Automobile Insurance Board and setting up a mandatory, uniform, industry-wide classification system. We are gratified that the government responded to the calls for rate regulation from CAC and other consumer groups when we made our submission to the Slater task force. In the US, a study by the federal General Accounting Office found that states with insurance rate review regulations have, on the average, 13 per cent lower rates than those states that do not.

Proposed rating system wrong-headed: The CAC is, however, deeply concerned about the direction that the rate classification committee has taken with respect to the development of the new rating system for auto insurance. There is no question that the draft proposal of the rate classification committee is an attempt to perpetuate the existing system; which CAC feels is unfair and arbitrary. Their approach is wrong-headed from a consumer standpoint. While the classification committee has followed the directive of the government to eliminate age, sex and marital status, the draft proposal appears to be designed to cause as little disruption as possible in the present unfair rating system.

Fundamental to the effectiveness of the board is the fairness of the rating system that the board will be called upon to administer. Bill 2 gives the new board the regulatory muscle to effectively control rates. However, if the rating system itself is flawed and unfair, the board will be thwarted in its objective to ensure that the rates are "just and reasonable." The most offensive aspect of the new rating system is the replacement of age with "years of driving experience." In other words, the young driver coming into the system will face the same unfair treatment he or she does at present.

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The readiness of insurers to switch, at their sole discretion, young drivers and others into the Facility Association will continue after the board comes into effect. Consumers must have the right, just as insurers have the right under Bill 2, to appeal to the board for a change in rates if they feel they are unjustly classified for rating purposes. We appeal to members of this committee to support the adoption of a rate review mechanism for consumers under Bill 2.

In the report of the 1986 Ontario Task Force on Insurance, at the bottom of page 118, Dr. Slater states:

"The task force is convinced that incentives for good behaviour and penalties or deterrents for bad behaviour should be part of the auto insurance system. These should involve the implementation of a bonus-malus system, safe driving campaigns, better safety standards and equipment and stricter Criminal Code sanctions, and also changes to an integrated database relating to driver claims' histories and convictions records, and to permit insurers to have access to this information on an on-line basis. Accordingly, the task force recommends that:

"C.5: In conjunction with the introduction of a new system of personal injury compensation, the government of Ontario should work with the insurance industry on an urgent basis to enhance the deterrent to hazardous driving, and to implement an effective bonus-malus system for setting automobile rates. At the same time, the Attorneys General of both Ontario and Canada should be strongly encouraged to continue their efforts to ensure more appropriate criminal penalties in respect of unsafe driving."

CAC favours a similar bonus-malus system for Ontario. Under this scheme, everyone comes into the system at the same base level, regardless of age. A bonus discount of 10 per cent is earned by each year of claim-free driving, to a maximum of 40 per cent. All drivers with four years' accident-free experience qualify for the 40 per cent discount from the onset. A malus surcharge is imposed for a chargeable claim, moving the premium three levels up the scale; that is, 30 per cent. Each subsequent claim-free year reduces the surcharge by 10 per cent.

A bonus-malus system similar to the one recommended by the Slater task force has been successfully operating in British Columbia with a high degree of consumer satisfaction since January 1, 1983. Please see our claim-rated scale in appendix A.

We urge the standing committee on administration of justice to instruct the rate classification committee to bring forward a bonus-malus system of rating in Ontario.

The Slater task force report recommended further, on page 119,

"C.6: To ensure the effectiveness of the bonus-malus system, the government of Ontario should work with the industry to devise a plan to create an integrated database to provide drivers' claims histories, conviction records and driving experience, and explore how to make this essential information available on an on-line basis."

The link between traffic violations and auto accidents has not been adequately demonstrated. The practice of surcharging insurance premiums which have no direct bearing on the claims experience of insurers is an outright subsidy to the insurance companies, and consumers resent this. Nevertheless, the proposed rate classification system would continue the practice of charging the car owner for traffic violations of all drivers of that car.

CAC recommends that the insurance companies should not be allowed to surcharge unless there is a chargeable claim made against the company. Penalties for traffic violations should be the sole responsibility of the driver of the vehicle and all surcharges applied accordingly. Surcharge penalties for insurance should be levied in recognition of the potential higher risk exposure to all Ontario drivers.

However, CAC recommends that the surcharges should be levied by the Ministry of Transportation and paid directly to the Ontario Automobile Insurance Board. The board should use the funds to finance the new database recommended by the Slater task force and be responsible to the Ministry of Financial Institutions, the Ministry of Transportation and the Attorney General for its operations.

Further, the Slater task force states, on page 122, traffic safety education:

"In addition to a bonus-malus system and the related database proposals discussed above, much more emphasis must be placed on initiatives such as safe driving campaigns, driver education courses, the use of safety equipment such as seatbelts, special children's car seats and so forth. In this connection, the experience in British Columbia is again encouraging. The ICBC has put a great deal of effort into a 'buckle-up' campaign, and nearly 75 per cent of British Columbia drivers use seatbelts, compared with an average of 63 per cent for all eight Canadian provinces with seatbelt legislation. Statistics now prove that the use of seatbelts has reduced traffic fatalities by at least 60 per cent. And for every one per cent increase in seatbelt use across British Columbia, deaths and injuries are significantly reduced, resulting in a community cost savings of \$1.35 million per year."

The board should assume responsibility for an ongoing program similar to British Columbia's in conjunction with the relevant ministries.

Bill 2 and the proposed rate classification system do not address the problem of the more than 200,000 uninsured vehicles in Ontario. Many drivers

who are being charged excessively high rates are bypassing the system by applying for insurance in order to obtain the pink slip. Once the car licence is renewed, the insurance is allowed to lapse.

CAC recommends that the board assume responsibility for the issuing of car licence plates, which would be distributed on line by independent insurance agents and brokers, directly linked to and issued with the auto insurance coverage. This would mean that no Ontario car owner could operate a vehicle on the streets and highways of our province without proper insurance coverage.

Finally, for over a decade the CAC has made responsible representations to the insurance industry concerning consumer problems with auto insurance. Our most recent statement was made to the Canadian Council of Superintendents of Insurance on September 14, 1987, in Charlottetown, Prince Edward Island; see appendix B.

Clearly, the failure of the industry to respond to the problems in the marketplace have now reached the point that unless it is prepared to make radical changes to address the issues presented to this committee, the future of private auto insurance in Ontario and elsewhere in Canada may be in doubt.

Mr. Chairman: I take it that is the extent of the presentation, so I am going to open up the matter to questions from the members. I do not have anybody yet. I was sure I would have your hand, Mr. Swart. It is up now.

Mr. Swart: This is not a question just at this time, but I am wondering if you would like to refer to your appendix B, and perhaps the other appendix as well but particularly appendix B. I have looked over it very briefly, but it seems to me it has some pretty important recommendations or expresses some pretty important views.

Mr. Chairman: Are you asking that they read that, Mr. Swart?

Mr. Swart: No, I ask that they report on it. I do not think, unless they want to read it--I would leave that up to them. They still have a couple of minutes left.

Mr. Delaney: Which part do you mean?

Mr. Swart: Obviously, where you are reconsidering your position with regard to public auto insurance and the comments you make relative to that.

Mr. Chairman: Which page is that?

Mr. Swart: It is on pages 6 and 7 in the appendix.

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Mr. Delaney: Very simply, last June the Consumers' Association of Canada (Ontario) celebrated its 40th anniversary. Frankly, in the expectation that the CAC (Ontario) would be called upon to comment on the potential implications of auto insurance and public ownership out of an election, CAC (Ontario) took an initiative and approached the three western provinces' CACs and asked them if they would agree to a meeting with the delegates from Ontario at their 40th annual meeting.

The whole idea was to get together with the three western provinces and have an exchange of views. We were particularly interested in finding out what the problems of public auto insurance were.

We had the meeting. There were presentations by all three, which were surprisingly favourable, surprisingly to us. We quized them about the problems we had perceived under the public auto insurance system and, again surprisingly, they came back very strongly in terms of the degree of consumer satisfaction with public auto insurance in those provinces.

I asked if consumers were asked to rate consumer satisfaction on a scale of one to 10--one being bad and 10 being excellent--how each in turn would rate their province. Of course, to the surprise of all of us, the average was nine.

Clearly, this indicated an entirely different attitude with respect to automobile insurance than we are experiencing in Ontario. I chaired this meeting and turned to the insurance delegates and said, "In view of this, what do the insurance delegates feel about the CAC reviewing our position on this public-private question, and can we have a show of hands of those who think we ought to be looking at this issue again?" The response was unanimous that the CAC should indeed be reviewing its position with respect to public versus private auto insurance for Ontario.

That is essentially what happened.

Mr. Swart: Perhaps I can pose a few questions on this. Did you go into the costs after this hearing, the costs of the operation of the western plans compared to the Ontario plans, particularly the expenses of the operation of the Ontario plans?

Mr. Delaney: No.

Mr. Swart: Would it have made the decision even stronger that you would want to review your decision if you had the figures which have come out for 1986, the audited annual report which showed the total expense of operating a plan in British Columbia is 20 cents on the premium dollar? In Manitoba it is 20.6 cents.

I have a statement here which was given to us by Stan Griffin, a researcher of the Insurance Bureau of Canada, which shows that in 1986 in Ontario, comparatively, the total costs of operating the system, including adjusting claims, as in the western provinces, was 42.5 per cent and this would save over \$600 million on expense costs alone. Would that have perhaps made it even stronger?

Mr. Delaney: With all due respect, Mr. Swart, the object in the exercise was to get feedback about consumer experience. We are doing an analysis. Let me say that in connection with the problems we face as an organization. We are, as you know, a nonprofit voluntary organization. We get a little subsidy from the Ontario government but it is not very much. The board responsibility for addressing a lot of issues that are ongoing in the Ontario Legislature requires, indeed demands, that we get some help in this area. We very badly need a researcher in our office to be able to help us compile work and do research in the areas that affect the public interest, that affect consumers generally.

Getting back to your question, I am sure it was necessary for you to use the numbers, but at the time we had no inkling of what the numbers were. The status of the analysis is, at the moment, that we have a committee. Most of the members are here today. In fact they are all here. We are examining the whole question. We have by no means come to any decisions. If and when we do, the analysis will be presented to the Consumers' Association of Canada board for potential presentation to the annual meeting, which will be next summer. As I say, our big problem right now in terms of doing this analysis is that we do not have any research staff at the CAC office.

Mr. Swart: I presume you will be getting further information from the western plan, such as its annual reports and that sort of thing, which is fairly readily available.

Mr. Chairman, I would like to ask a question on the first part of the brief, if I may.

Mr. Chairman: Let me just inquire. Mr. Kanter had a question. I am not sure if it was a supplementary.

Mr. Kanter: No, not really.

Mr. Chairman: All right, go ahead.

Mr. Swart: I will be brief, because I want other members to have a chance to ask questions too.

I might say I am very much in agreement with the first part of your brief as well. As you will know, we--by "we" I mean the New Democratic Party--did a tour of the province and found nine major problems. I think we can divide all of this auto insurance issue into two parts. One is the rates that are collected and the other is the fairness of the whole system. What we have before us, the rate review proposal, deals with the matter of fairness to some degree but does not deal with the expensiveness of the present system in any way.

One of the problems we found was arbitrary cancellation or refusal to renew insurance. Do you see anything in this to prevent that?

Mr. J. B. Nixon: Mr. Chairman, could I speak to that, just to assist the member?

Mr. Chairman: If it is a supplementary, Mr. Swart is prepared to agree.

Mr. J. B. Nixon: I just want to assist you.

Mr. Swart: I think the procedure has always been that a person does the questioning. The representative of the minister, if he wants, can make a reply, but I do not think he interjects while any member is asking his questions. He gets the same right as anyone else to reply.

Mr. Chairman: I wanted to know if you are going to move on to another area.

Mr. Swart: I am dealing with the whole question of discrimination, and I may have other comments. I do not think we should interrupt after each question.

Mr. Chairman: Go ahead.

Mr. Swart: Another thing we found was that all drivers in a household are penalized because of one driver's record. Although my understanding is that this may be eliminated if the wife owns one car, the husband owns another car and the son or daughter owns another car, if there is only one car in the household, all drivers are penalized in the same way. Is that your understanding as well? So it does not resolve that.

Young male drivers with good records are victimized by rates three or four times the average. Although this will reduce that some, the simple facts are that young males and young females are all going to pay substantially more. Young females will be paying more and young males will still pay more than adult drivers because they have to get that five years of experience, which they cannot get. They are starting out, to some extent at least, being considered guilty and having to pay these rates. One has replaced the other to some extent. Are you in agreement with that?

Mrs. Anderson: The bonus-malus system, we suggest, would avoid that, because everyone would start at the same rate and then they would go up or down based on claims.

Mr. Swart: You have covered people driving without insurance. We found that because no-fault is extremely limited, there are long delays in compensation and unfair settlements to accident victims. Do you see any improvement in that from this bill?

Mrs. Anderson: We have not addressed the whole subject of no-fault in this brief. That is an entirely different thing. This is the rate classification.

Mr. Swart: But there is nothing in this bill that would resolve this problem.

Mrs. Anderson: Nothing.

Mr. Swart: We found that new drivers of any age were charged almost prohibitive premiums, and that still will be true according to the new proposal. Is that correct? Is that your interpretation?

Mr. Delaney: I am sure you have a list of items that you would like us to concur with, but I do not think it is reasonable to expect us to do so in the circumstances. As I said, we have a project going at the moment whereby, if we could get some help with it, we might be able to come up with some kind of analysis and a report.

Essentially, opposition with respect to Bill 2, which I understand is the subject of this hearing, is as outlined. We are deeply concerned about the implications for young drivers and young women.

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The problem is that in terms of the rate structure, we have 73 per cent to 75 per cent of people who are adult males, married and so on, who pick up the bulk of the premium volume. We have eight per cent females under 25 and 15 per cent males under 25. Under this scheme, if we make it a user service, it means that the young women will be lumped in with the young men and, sure enough, they will pay a hell of a lot more.

The problem is that, in order to get an equitable distribution of the cost, you have to integrate the eight per cent and the 15 per cent with the 75 per cent base so that the rate of increase all round, to the extent that there is an increase, will be minimal.

What is insurance if it is not spreading the risk? The larger the pool, the lower the cost for all concerned. If we are going to spin off individual groups because of their ages or whatever, clearly it is detrimental to the principle of insurance in the first place, in my view, notwithstanding what actuaries might say to the contrary.

Mr. Kanter: I would like to compliment the Consumers' Association of Canada for producing a very interesting and relevant document, quite a well-balanced document on the subject before the committee.

I do have several questions. I take it that your position on the rate review board is that it is something you favour in principle, but that you have some concern about some of the details, particularly with respect to the draft classification system. Is that your general position?

Mrs. Anderson: That is correct. Also, because we do not see anywhere that the rate review board will have the power or even--we would like to see it specifically in the bill that consumers could go before this rate review board. It does refer to industry-wide hearings and it does refer to the fact that industry can go before the board and ask for changes to be made in rates, but never does it say that an individual could go.

Mr. Kanter: I think that is an interesting procedural point.

With respect to your first concern, of the replacement of age with years of driving experience, I take it that you have no difficulty with some of the other factors mentioned in the draft proposal, such as use of vehicle, vehicle characteristics, those kinds of things. You are in agreement with those?

Mrs. Anderson: There was another point we did not feel we should dwell on because we wanted to keep our brief as short as possible--the miles driven. We felt that was going to be rather difficult to estimate in advance and estimate correctly. Who would check your odometer? The committee itself was having trouble with that one; we have a lot of trouble with that.

Mr. Delaney: Can I just add something here? You mentioned aspects of the rating system proposed. We have different rating territories in Ontario. Right now, we have 19 different areas of the province where the rates would differ. This committee is proposing to increase this number from 19 to 28, which seems totally ridiculous. British Columbia has six. The problem is that there are going to have to be tables of rates for all these different areas. It seems to me the actuaries have gone bananas; we are going to have the tail wagging the dog.

Mr. Chairman: Mr. Kanter, I do not want to curtail your questions, but we do have time allocated for delegations and also for questions by members. We are coming quite close to the time for this presentation--

Mr. Kanter: I appreciate that, Mr. Chairman, but I think this group, as the representative of consumers in the province, does merit substantial attention from this committee.

Mr. Chairman: If that is the agreement of all members of the committee, far be it for me to try to curtail the time. I am just telling you that is--

Mr. Swart: On a point of order, Mr. Chairman, I think we should allow at least an additional 15 minutes if there are other questions for this group. It is a very important group. If we go past the noon hour a little way, so what?

Mr. Chairman: I am not certain that that is a point of order. We are looking for unanimous approval. Seeing no one objecting to that, we will do that. All right, Mr. Kanter, continue.

Mr. Kanter: I would like to try to focus a little more specifically on your concern about the replacement of age with years of driving experience. I take it that it is your view that in other jurisdictions the bonus-malus system, which I believe you have mentioned, would provide a fairer way of allocating risk, given the fact that we are going to have to meet the costs of the system somehow. I wonder if you have given any thought to the impact that that system would have on costs for, shall we say, average drivers. Would that result in perhaps a greater reduction for younger drivers, female as well as male, but, correspondingly, for drivers--call them older, call them drivers with more years of driving experience, call them what you will--would your proposal have the effect of a greater increase for many drivers while reducing the cost for the younger drivers?

Mr. Swart: That is why we need the savings of a public system.

Mrs. Anderson: We do not have the figures, because I do not think they are even collected. But looking at it philosophically, with 75 per cent of the drivers being in the over-25 category, 15 per cent under-25 males and eight per cent females--and there are a few left out there somewhere--if you look at the numbers, the numbers will reflect a small increase for everyone.

But on where the surcharges are going to be placed on that is going to depend how much everyone else is going to have to pay, and it looks as if the surcharges for a claim will probably be quite heavy. To us, that is not a bad thing, because the whole idea is to try to prevent unsafe driving, prevent bad driving and, as everyone wishes in the system, penalize the bad driver and compliment and help the good driver. That is what we want to see, so we do not think it is going to mean a tremendous increase for everyone.

Not only that but the statistics show that 29 per cent of the young drivers under age 25 are the ones who cause most of the accidents, so about 70 per cent of young drivers are not causing the system a lot of the expense and yet they are penalized as a group themselves. When a young man comes into the system and pays \$1,500 or \$1,900 for his insurance and has no accident, that is grossly unfair. A bonus-malus system would mean that everybody would start off at the same rate, whether you are 50 or 16, and then you pay more if you cause the system more expense, which is a claim.

Mr. Delaney: Can I just add something to that? You see, one of the problems we have in Ontario is that there are no statistics available. We found out only on Friday--delivery by cab at 6:30 on Friday night--that we have 172 active auto insurance issuers in Ontario. Their rates are all over the lot. They are not required to report the rates they charge to the department of insurance, so any kind of independent analysis is extremely difficult, if not impossible. They report their overall total premium income

and expense-loss ratio on an ongoing basis, but there is no way of analysing it, no way for independents to analyse it, because of the nature of the problems that exist.

Of course, you have only to go back to Slater. This province paid a lot of money to Dr. Slater to do a fairly extended study and he came up with some excellent recommendations. And here we are, the first opportunity to do something about it, and what do we do? We ignore it completely and give the ball to the industry to carry it off in this direction. It is not in the public interest, in our view.

Mr. Kanter: Just one further question--

Mr. Chairman: I hope it is just one further. I have several other members.

Mr. Kanter: A short question on the very same topic. I wonder if the parliamentary assistant to the minister could comment on the proposal that we look at a bonus-malus system of rating in Ontario--look at some other factors as well--but look at the bonus-malus system rather than the years of driving experience. Have you have looked at that? If you have, what are your conclusions? If you have not, would you do so for this committee and respond at the proper time?

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Mr. Chairman: In fairness to the other questioners, I am going to withhold that until the end and let Mr. Nixon make that comment then. If those are your questions, the next questioner is Mr. Runciman.

Mr. Runciman: Off the top, I want to take issue with what Mr. Kanter said in respect to this organization representing consumers. This organization represents this organization and nothing else, in my view. They express views which they quite sincerely believe are in the best interests of the consumers of this province--I do not take issue with that--but to suggest that they are speaking on behalf of all consumers of this province is ludicrous. In fact, based on past history, I know a number of occasions when they have been taking very much a minority view in terms of consumers in this province.

Mr. Chairman: Is that your question?

Mr. Runciman: No, that is a statement. I think Mr. Kanter made a comment in that respect and I want to indicate that that is not shared by all members of the committee.

Mr. Swart: But neither is your view.

Mr. Runciman: Obviously the voters do not share Mr. Swart's views on government-run auto insurance. I think the consumers voiced their opinion in the election, there is no question about it, in regard to that issue.

Representatives of the association have expressed great concerns about the rating system and the inclusion of years of driving experience. I would like to hear a little more about the rationale behind that, because most of us in this room have a driver's licence, I assume, and I think that most of us, with years of experience, have improved our driving abilities with experience, for the most part. I know I have and I know that if any of us have driven behind a learning driver, we are darn leery of him. I think it just makes good sense that your skills are going to improve with experience.

The insurance companies are in the business of risk management. Why should they throw that kind of consideration out the window? I would like to hear a little bit more of your rationale behind your concerns about that particular area.

Mr. Delaney: The nub of the issue is fairness, OK? We have a grossly unfair system today. By comparison, we submit that the bonus-malus system, which was advocated by Dr. Slater and which has been successfully operating in British Columbia since January 1, 1983, with a very high degree of consumer satisfaction, à la my statement with respect to the presentations we have got, is indication enough to us of the value of the bonus-malus system. In terms of its being recommended by a task force set up by the Ontario government and with the experience of the high level of consumer satisfaction, we are in support of it.

Mr. Runciman: That does not deal with my question at all. Are your driving skills the same as they were the first year you were driving? Are you trying to say you are a no better driver than you were the year you got your licence?

Mr. Delaney: No, but I submit to those who, because they have got 15 years of accident-free driving, suggest that they are better drivers than somebody with two or four years or that they do not make any mistakes on the road particularly, that is a little arrogant, to be quite frank with you. The fact of the matter is that it is a human failing to make errors in judgement. We have accidents when other drivers do not compensate--

Mr. Runciman: Have you got any statistical evidence to back this up? You do not have any evidence.

Mr. Delaney: Please hear me out, OK?

Mr. Runciman: I would like you to answer the question.

Mr. Chairman: OK, that is fine, but as you know, Hansard can only record one voice at a time, so let us keep it orderly.

Mr. Runciman: I will move on. I am not getting an answer. I have a couple more quick questions.

Mr. Delaney: He is getting an answer, Mr. Chairman, I submit with all due respect. The point I want to make is that we hear repeatedly that because you have got 15 years of accident-free driving you are a better driver than somebody with a shorter driving experience. I think it is arrogant, personally. I do because it is a common human failing to make errors in judgement and we all do it every day on the roads. We have accidents when other drivers do not compensate for us. We compensate for other drivers who make mistakes, and if the other guy does not compensate, then we have an at-fault claim as a consequence.

I submit that in terms of accident claims, for the most part it is not a question necessarily of the drivers who are bad. There are certainly bad drivers and this is why we feel that drivers should be penalized when they lose demerit points to the extent of having to pay money into the pool that would be used to enhance driver education and to run the board in terms of the context that we see the board coming along.

Mr. Runciman: I have a couple of quick questions. I know you are

talking about the bonus-malus system here and you have talked about some changes that are to take place if that was instituted, but you have not talked about licensing standards. I am wondering how you feel about that.

If you are talking about anyone coming off the street and getting a licence. If insurance companies are supposed to assume that kind of risk, do you not think as well that perhaps the government, if it is going to institute that kind of a program in terms of risk management, should also be making it that much tougher to secure a driver's licence? Perhaps it should give consideration to the question of raising the driving age. Those are areas you have not touched upon and I would like to hear your views.

Mrs. Anderson: I think you are absolutely right. I do not know if everyone would agree with you that you should raise the driving age. Speaking personally and not for the association, I would like to see that. I think that is very important. I would also like to see some way of identifying a new driver--not necessarily a young driver but a learner-driver--with a sticker or something on the car to warn other people. Those are all things that we have not addressed. We did not feel we wanted to take the time to go into a lot of details that were not within the purview of this bill.

Mr. Delaney: Can I just add to that? On page 6 you read the quote from Dr. Slater on traffic safety education, in which he goes into a long explanation of what is needed. Then, on the top of page 7, the position of the Consumers' Association of Canada is that the board should assume responsibility for an ongoing program similar to British Columbia's in conjunction with the relevant ministries. I submit, with all due respect, that addresses the issue that you have just raised.

Mr. Chairman: Mr. Runciman, as you were asking that question about the inexperienced driver, the thing that came to mind was this thing you see on many cars, "Baby on Board," or "No One on Board." Perhaps you could have one, "Inexperienced Driver" that would swing there.

Mr. Farnan: First of all, I would request that ministry staff table with this committee any background studies or information that they have concerning the bonus-malus system that they looked into during the course of this whole process.

Second, the most significant statement that I heard from the delegation was simply this: "We have ignored the Slater report. We have given the ball back to the industry." That frightens me, when a group representing consumers has the perception that what is taking place is the status quo.

I have the concern, and my party has the concern, that this whole board could be insurance company oriented or insurance company dominated, and I would ask the delegation if they would concur that there should be provisions for substantial consumer representation on the review board, on the review panel.

I also believe that as members of this board would be appointed by cabinet--that is my understanding; I think they are appointed by cabinet. Is that correct, Mr. Chairman?

Mr. Chairman: That is correct.

Mr. Farnan: Then I would suggest that perhaps this committee should be, if it is possible, writing an amendment to the bill providing for consumer

representations on this board. I would put that forward for consideration by the committee at the appropriate time.

Ms. Hart: My question really follows on from that and it is to the the parliamentary assistant and perhaps it should not be answered now, but at some later time. It has to do with parties to the proceedings before the board. I read section 11 and it does make provision for additional parties totally in the board's discretion.

What I would ask you to consider is a similar proposal, that it be made a little more certain that someone other than the industry can readily be a party to a proceeding before the board.

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Mr. Chairman: Mr. Nixon, there were a couple of points you might want to comment on. Perhaps the first one to deal with is Mr. Farnan's request that any background material on a bonus-malus program might be tabled, and then you might want to comment on the other items.

Mr. J. B. Nixon: Very quickly, Mr. Chairman, I would like to thank the Consumers' Association of Canada for its brief. It is valuable. Just in passing, I would note their first comment to the effect that the American experience is that a rate review board results in a 13 per cent reduction in premiums in those states where there is a review board.

Also, I welcome their comments on the draft classification system. As you know, the classification system put before this committee is just that, a draft classification system. It is before the committee for comment and it will be before the public for comment. We invite comment, hopefully constructive comment, to facilitate an improvement of the system.

I would note that there was an advisory committee which involved representatives from the Consumers' Association of Canada, the Hamilton Auto Club, the Insurers' Advisory Organization and insurance groups, which assisted the ministry in the preparation of this uniform classification system. Indeed, the Consumers' Association of Canada has been a party to this classification system.

Mr. Swart: The ratio is important.

Mr. J. B. Nixon: It may not agree with everything that is there, but that is why it is out for public consultation and that is why we are pleased to receive its advice again today.

I am sure the ministry would be happy to give you, Mr. Farnan, or any other member, copies of any studies on the bonus-malus system that we have available.

Mr. Chairman: Actually, it should be made be available to the clerk and available to all members.

Mr. J. B. Nixon: I do not see any problem with that. It is true, Dr. Slater recommended a bonus-malus system, but a bonus-malus system is only defined when you call it a bonus-malus system. In other words, there is a wide variety of types of bonus-malus systems. There is a very pure bonus-malus system based exclusively on one variable, which may well be drivers' accident experience. You may have a hybrid bonus-malus system which includes a wide number of variables. There has been some research in that area.

One article I would suggest the CAC might be interested in looking at is a description and analysis of the Quebec automobile insurance plan, conducted by two professors at the University of Montreal in which they looked at, among other things, variables including the individual's number of demerit points accumulated over the past two years. I would suggest that, contrary to the proposal you are putting to us, Mrs. Anderson and Mr. Delaney, they found a very high degree of correlation between an individual's number of demerit points and the likelihood of an accident and, therefore, a claim.

But, as I say, this is all draft. We are looking for comment and there will be competing viewpoints and all of those, hopefully, will be amalgamated in the best classification system possible.

Mr. Swart: If I could just make one point here--

Mr. Chairman: Just a moment, Mr. Swart. I am not sure he has finished yet.

Mr. J. B. Nixon: There is always a lot more work to be done in the area of encouraging good driving and prevention of bad driving. I am happy to note, and I am sure Mr. Swart will agree, that one of the lowest accident frequency rates in Canada is found in Ontario. Importantly, it has been reduced significantly in the past two years, with the government's initiatives in the areas of drinking and driving and so on.

The cost of insurance is not driven by the number of accidents but the price of the claims. The higher the claims, the higher the premiums, as the president of the Insurance Corp. of British Columbia and as the president of Autopac in Manitoba have said.

In any event, I have one final comment. As to Ms. Hart's question about whether consumers should be a designated, specified party to the rate board hearings, I think that is something the ministry will take under advisement. The legislation as it reads now says, "The parties to a proceeding before the board are...such other persons as the board may name as parties."

It was our original feeling that that gave the board the discretion to invite any or all necessary persons or appropriate persons. Certainly there was no attempt to exclude consumers. Perhaps we should take a look at it if some people feel that it does, but that certainly was not the intention of the legislation or the intention of the government.

Mr. Swart: Could I make a suggestion that we contact the Insurance Corp. of British Columbia and ask if it could send us a summary of its bonus-malus system? I understand that ICBC will be here, but the time is going to be limited. I think if we could get that ahead of time so that the members could have a look at it, it would be valuable for all of us.

Mr. Chairman: We will ask the clerk to contact them and see if they can arrange that in advance of their attendance. I want to thank you very much for coming forward. As the members have said, your presentation was very interesting and we appreciate your concern and your time. Thank you.

TORONTO TAXICAB BROKERAGE ASSOCIATION

Mr. Chairman: The next group on our agenda, which was slated for 10:30 but is now slated for 11:05, is the Toronto Taxicab Brokerage Association. John Tory, I understand, is appearing on their behalf. Perhaps

you could come forward, Mr. Tory, to identify yourself and any other persons who might be with you for Hansard.

Members of the committee, attached to exhibit 3 is perhaps what you are seeking in terms of the information concerning the bonus-malus information. It is from ICBC. Mr. Swart, we have that.

Mr. Tory, you have heard our comments with reference to timing. I understand your brief will be about 15 minutes, to allow us 15 minutes or a bit longer to ask questions. Have you identified the people you have with you?

Mr. Tory: I will do that, sir. I would like to begin by introducing Joe Hadbauny, chairman of the Toronto Taxicab Brokerage Association. He is with Co-op Cabs here in Toronto. Accompanying him are the odd couple, Graham Murray, who is on my left, both philosophically and geographically, and who is a consultant who has been assisting the taxicab brokerage association, and myself, John Tory. I have also been assisting them, both with respect to the insurance question and with other matters.

By way of introduction, Mr. Chairman and members of the committee, the Taxicab Brokerage Association welcomes the opportunity to appear here and to make these submissions to the committee concerning Bill 2.

To give you a bit of factual information with respect to what our association is, the TTBA dispatches approximately half of the 3,000 municipally licensed taxicabs presently operating in Metropolitan Toronto. While the association itself does not own the taxicabs, the latter are owned, in numbers ranging from one to multiple car fleets, by association members. The taxis, in turn, are driven either by the owners themselves or by independent contractors with taxi drivers' licences who lease the vehicles from the owners, or by a combination of both.

Again, as a matter of factual background, there are approximately 11,000 licensed taxi drivers in Metropolitan Toronto.

To give you some idea of the magnitude of the operations carried on by our members, our members alone, that being our share of the industry, carried some 10 million fares in 1986, which is the last year for which we have figures available. Assuming a minimum of one passenger for each of those fares, we are talking about a very important part of the transportation system in Metropolitan Toronto.

As you will know, the sole source of revenue for taxi operators, and indeed taxi drivers and everybody involved in the industry, is what comes from the fare meter. That, in turn, is regulated by the municipal government. In the case of Toronto, it is regulated by the Metropolitan Toronto Licensing Commission, which is part of the Metropolitan Toronto government. In that sense, I suppose it is important to note that the industry does not control its own revenue stream.

Most of the items on the expense side of the coin, as far as taxi owners, drivers and others are concerned, are again beyond their control. These include such items as the price of automobiles, the cost of maintenance and fuel and, of course, the cost of insurance, which is of primary interest to us here today.

Simply put, the situation facing the taxicab industry vis-à-vis automobile insurance, I do not think it is overstating it a bit to say it is a

crisis, that it is causing grave problems for this industry, it is a crisis that is deepening and, notwithstanding some of the efforts of the Ontario government to provide relief, it is a crisis that is still of great concern to the industry in terms of the impact it might have in the future. I believe it should be of great concern to legislators, both at the provincial and the municipal levels, because of the impact this crisis may have eventually on service and the transportation system in Metropolitan Toronto.

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The industry is quite anxious to acknowledge at the outset the fact that many of the insurance problems besetting the members of the Toronto Taxicab Brokerages Association or the industry as a whole are self-induced problems. They are self-induced problems that result in large measure from inadequate attention in the past to risk management on the part of this group and the lack of an integrated industry-wide attack on the problem.

That being said, we are now in a position where having acknowledged our own shortcomings--better late than never; indeed that kind of an acknowledgement has been too long in coming--we are now in a position where this association, together with other elements of the industry, has been seeking assistance from both government and the insurance industry to try to deal with the problem, but without much success. I should say, in appearing here today that, frankly, we have had more success in dealing with government both at the Metro level and the provincial level than we have in dealing with the insurance industry.

The root causes of the insurance crisis faced by taxi operators in Toronto, by our members in particular, are two in number: First of all, there is the relative lack of availability of insurance for taxicabs and the often impossible terms and conditions which accompany what little insurance can be obtained in the ordinary course and, second, the unacceptably high premiums now being paid by a great number of our members in Metropolitan Toronto.

I provide all of this by way of background to our suggestions which we get to towards the end on Bill 2. Looking at the lack of insurance: With the advent of compulsory automobile insurance, as you know, Mr. Chairman, came the creation of the Facility Association, which is operated by companies underwriting automobile insurance in the province and which makes insurance available to those who are unable to obtain it through the voluntary market. Premiums obtained through the Facility Association can, naturally, be expected to be higher because of the very nature of the people who end up there, but by the same token, I suppose, our members in particular and I am sure most fairminded people would hope that as the court of last resort for people who have to obtain automobile insurance under the legislation in force in this province--

Mr. Swart: Excuse me, the PA system is cutting in and out, and what you are saying may not be on record if it is not coming through.

Mr. Tory: Thank you, Mr. Swart.

It is our view that most fairminded people would think that in a court of last resort like this, where you have to go to get insurance when you have no other choice, great care needs to be taken to avoid excessive premiums.

Just to give you some idea of the trend line, in 1982, approximately 1.9 per cent of Metro Toronto taxicab insurance was written by the Facility

Association. This is based on figures they supply. In 1986, that had increased to 50.3 per cent. So now more than half of all the taxicab business in Toronto is written by the Facility Association, and the percentage is even higher when one looks at the members of our association since there are more multiple car groups involved, and it is a figure that, in our experience, continues to increase every day. I was citing 1986 figures.

This situation has arisen largely because the vast majority of insurers simply refuse to write taxicab business, and even those who continue to write any taxicab business at all are steadily reducing their activity in this area. So as more and more of our members are forced to turn to the Facility Association, that association has, in turn, responded with vastly increased premiums and increasingly onerous terms and conditions which accompany the insurance they provide as the insurer of last resort.

Just to give you an example encountered by a number of our members very recently, the following conditions are attached to insurance premiums or insurance renewals:

(1) Drivers must have at least three years' continuous cab driving experience;

(2) Acceptable drivers can have up to three convictions within the last three years, which includes seatbelt violations, and up to one accident which must be two years old.

The former condition, in particular, which may look perfectly reasonable on its face, does not take account of the reality of the taxicab industry, namely, that by imposing a requirement that there be at least three years' continuous cab-driving experience, the Facility Association is effectively ruling out the use of part-time drivers, who make up a large number of these 11,000 licensed drivers we were discussing earlier. It also rules out the use of newly licensed drivers who have gone through the taxicab licence school that provides and have become appropriately licensed but are precluded from driving because the owners of the cabs they would drive cannot get insurance.

Another of these rules results in the imposition by one insurance company of a premium surcharge on propane-powered vehicles. As you will know, many of the taxicabs now operating in Metropolitan Toronto operate on propane. To impose a surcharge on account of a propane-powered vehicle seems to be inconsistent with conservation and environmental objectives that are being sought by others elsewhere.

Of equal concern to the rules themselves and the content of these rules is the fact they seem to change on almost a daily basis; depending on whom you ask, when you ask and how you ask, you will get a different set of rules that accompany the renewal of insurance by the Facility and by companies that are still offering taxicab insurance in the voluntary market. What will happen if this trend continues is that we will have an entire industry, a big industry involving thousands of people, not only just the thousands of people who use the cabs but, I suppose, equally important, the thousands of people who rely on the industry for their livelihood, left in the court of last resort with no flexibility and no alternative when it comes to complying with unreasonable or inconsistent conditions or with excessive premiums. The financial consequences I will deal with as the second item is the root cause of the problem.

We conducted a survey among 200 of our members in 1987, and that revealed that the average insurance premium being paid by them was \$7,378.

There is a lot of discussion in the press and elsewhere about the high premiums being faced by individual drivers who are not owners and operators or drivers of taxicabs, and those numbers do not even begin to approach, in the normal course, \$7,000.

That is not the worst of it. The range of the premiums was from \$1,640, at the low end in this survey that we conducted among our members, to a high of \$11,870 for one year of car insurance. Some members, not included in the survey but from our own information we gathered in the course of discussing this issue, are paying as much as \$15,954. That was the highest one we found so far of somebody who is actually paying that kind of excessive premium for his annual car insurance.

One might conclude that it could not get any worse once you get to \$16,000 for annual insurance premiums, but that appears not to be the case. In November 1987, one of our members was informed that to renew the insurance on his single remaining taxicab would cost him \$33,647 for the ensuing year. There is the letter right there. I am not going to get into the details of who the person was or what company made that rather odd demand in terms of a premium, but that is the fact. The premium that was cited in the letter was \$33,647 for a year's insurance.

If it is possible for anything to be more disturbing than these figures themselves, the trend in premium increases in recent months has been very alarming. A lot of attention has been paid to the fact the government did provide a measure of assistance and relief by convincing the industry to reduce taxicab insurance premiums by 10 per cent, and the industry is grateful for that assistance, but almost no attention was paid in the course of doing all the calculations that often appear in the media and elsewhere to the fact that during that same period of time during which the 10 per cent reduction took place, the Facility Association, the court of last resort, was in the process of imposing, in some cases, as much as a 40 per cent premium increase for the policies renewed between August 1986 and August 1987. So while the assistance provided by the government in convincing the industry to roll back premiums by 10 per cent was helpful, it still left the taxicab industry, I am sure, among others, faced with premiums that were increasing by a significant amount.

This has put great pressure on the bulk of the industry, and even more serious is that in terms of the long-term consequences, it has led to a situation where at least 31 taxi licence plates, just to give you an example, are sitting on the shelf in Metro at the moment and cannot be put into service due to high insurance premiums, and there are other fully equipped taxicabs fully equipped with a plate that are all ready to go, ready to roll on the roads--and we cannot quantify that exactly--that are sitting idle for the same reason. This situation is occurring at precisely the time when the Toronto Star, among others, is filled with articles talking about the desperate traffic situation in Metropolitan Toronto and the need to provide more alternatives to private cars, and above and beyond that there is the equally or more important human factor, which is that it is contributing to high unemployment levels among taxi drivers.

I think I can say to you without hesitation that our association has every reason to believe that in the absence of some further relief on automobile insurance, dozens of additional taxicabs will be off the roads and out of service within a matter of months, and if it does not seem credible coming from this association or from me, perhaps I could cite to you one of the conclusions reached by a working group on insurance appointed by the

Metropolitan Licensing Commission; I notice Mrs. Ruddell-Foster is here today from the licensing commission. They said simply this, "The high cost of insurance has the potential to bankrupt many owners and to drastically reduce service levels." Those are the consequences we are speaking of here.

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We are here today to speak specifically to questions of Bill 2. There are a number of things we have come to the conclusion could be done in the course of recognizing our own shortcomings in the past to help alleviate this situation, such as some of the discussion Mr. Runciman had earlier with the Consumers' Association of Canada concerning drivers' licences and so on. These are measures that are not properly or necessarily discussed here, but in terms of Bill 2 we think there are a number of things that can be done to both strengthen this bill and to assist us in the process of dealing with our problem, a problem we think we share with both the insurance industry and government which regulate us at various levels in various areas.

I think it is true to say that extraordinary co-operation is going to be required from the insurance industry. To date, I very much regret to say that this kind of extraordinary co-operation has not been forthcoming. In fact, I will go beyond that and say that even a minimum amount of co-operation has not to date been forthcoming from the insurance industry. I say that notwithstanding the assistance of Mr. Nixon, who is here today, who tried to assist us in setting up some meetings with the Insurance Bureau of Canada throughout the latter part of 1987 and now into 1988. To date, we have been unsuccessful in securing even a single meeting with them to discuss this problem and to set about the task of putting in place the kind of risk management programs and other measures that we recognize we have to implement to provide relief for taxi drivers, taxi owners and taxi operators in Toronto.

I should say to you that just by way of a miraculous coincidence, yesterday afternoon at 4:30 p.m., the Insurance Bureau of Canada phoned the Toronto Taxicab Brokerages Association, obviously having seen the order paper for this committee for today. It has offered to set up a meeting at the earliest possible date. We are delighted with that and we thank you for having these hearings so you could facilitate that meeting taking place.

Mr. Swart: Good thing we had an election too.

Mr. Tory: Given the fact there seems to have been some difficulty in achieving the desired level of co-operation, we think there are things maybe government and the Legislature can do to help us to ensure that this kind of co-operation is forthcoming and that these measures can be put in place.

We recognize that the key to lower insurance premiums is not some government edict that is simply going to say they must be lower. The key to lower insurance premiums for our industry is better risk management. In turn, assuming that as an association we now have the will to make that work--recognizing we may not have in the past--we believe the remaining key to effective risk management for our industry lies with the insurance industry that has the information, I suppose most importantly, and the skill and the knowledge to help us put together effective risk management plans.

The will is there today. All we need now is their assistance and enthusiastic co-operation. Accordingly, we would like to recommend that you consider amending Bill 2 to empower the Ontario Automobile Insurance Board to require that in any instance where the board determines a rate or a range of

rates for any given class of exposure, as you are entitled to do in the legislation as it now stands, the board may also require that the insurer or insurers develop, in consultation with the members of the class, a risk management program for the class which shall be submitted to the board and then in turn submitted by the board to the members of the class.

We think this might be achievable by way of a policy statement under section 27 of the bill. If it is the opinion of your counsel that a policy statement would not be adequate for this purpose, we believe sections 20 and 24 could be amended to give the board the power to order the preparation of such a plan.

It may be necessary as well to amend subsection 20(7) to make specific reference to the board's ability to take into account whether or not a given class implemented a plan that was prepared in response to a board order. We recognize that the board could order somebody to prepare a plan that could be submitted to the board, which could in turn pass it over to a class such as taxicab operators. If the class made no effort whatsoever or no genuine effort to implement that risk management plan, then we understand that the failure to implement such a plan effectively should be taken into account in setting future rates, just as effective implementation of such a plan would benefit the group in the setting of future rates, assuming the plan had time to kick in.

We believe as well that provision should be made to empower the board to order the implementation of any such risk management plan by any class or group, so that you can ensure such plans would not be wasted.

We feel particularly strongly that the board should have the power to order the development of such plans under section 24 in conjunction with the Facility Association rate-setting process. There in particular you have the court of last resort where people have no other option and where, by the figures provided by the Facility Association itself, the majority of the Metropolitan Toronto taxicab industry is forced to go for its insurance. Given the fact that by its very nature most of the Facility Association's customers or clients are high-risk people, we believe it is appropriate for the board to order the preparation of risk management plans in every case where somebody is insured by the Facility Association.

We believe that the board, in addition to the powers it is given pursuant to section 12 to require the production of documents and information, should also have the discretion, upon application by an insured, a group of insured or any given class, to make any or all of that information available to those insured. I know there has been some discussion here about the breadth of powers that are given to the automobile insurance board to compel or require the production of information.

I can only say to you this: One of the major obstacles that has stood in the way of any kind of effective risk management by the taxicab industry over the years since insurance has become a problem is the complete inability the industry has to get any information with respect to claims history, with respect to the identification of high-risk individuals and so on. If we are going to have somebody driving the cab of one of our members, it is imperative that we know for purposes of meeting these kinds of qualifications that are put in place by the insurance companies or by the Facility Association, what the driving record of those people is, what their claims history is. Right now, we have great difficulty getting that information.

In addition to that or in the alternative, we are suggesting the board should be empowered to compel the industry to establish a central data bank containing claims information on all insured drivers in Ontario and that such information should be freely available, either directly or through application to the board. I know the consumers' association made some reference to such a suggestion as well. Again, we mention some sections under which this might be accomplished.

We also wish to suggest that consideration be given to specifying in the legislation the creation of certain province-wide classes which must be specifically and separately dealt with pursuant to the rate-setting procedures as specified in the bill. Naturally, we would like to see taxicabs so specified. This would permit the board to then determine insurance rates for taxicabs on a province-wide basis. I wrote down a quote that one of the people from the Consumers' Association of Canada mentioned in the course of its presentation. "What is insurance if it is not spreading the risk?" We agree. That is not to spread the risk from taxicabs out to other drivers in society, but rather to ensure that the risk is properly spread and fairly spread among the members of our industry.

I mentioned earlier that we have a number of other steps that we are prepared to take and that we think should be taken, including measures by the province such as to do with drivers' licences and so on, but those are not properly dealt with here.

By way of conclusion, and I am sorry if I have gone a moment or two over, I should just reiterate the fact that the present situation involving automobile insurance premiums faced by the Toronto taxicab industry, and in particular by our association which is a large segment of that industry, represents a grave financial crisis for these people. It is a situation that is getting worse, not better, notwithstanding the efforts that people have made to try to come to grips with it.

We think that a failure to demonstrate leadership in coming to grips with this crisis in bringing down insurance premiums, and we realize that will not happen overnight, threatens not only the industry and the thousands of people who earn their livelihood from the industry, but also the fabric of the public transportation system in Metropolitan Toronto and the members of the public who rely on the taxicab industry on a daily basis.

We recognize that significant leadership must come from our industry and from our association, and we are prepared to offer that leadership where perhaps, quite frankly, we might not have been prepared to do so or we might not have been able to do so. Now we are calling on the Ontario Legislature for help, both directly and, I suppose just as importantly, by way of measures that it can require the insurance industry to undertake. We are grateful for the time we have had here today and we are happy to answer any questions you may have.

I should mention that Don Souter, Bruce Bell, Abe Bresver and Hy Weinrib, who are all senior people in the large companies involved in the cab industry in Toronto, are also here today, but there were only four chairs so we decided just to present these three people to you for questions.

Mr. Chairman: Thank you for your presentation. It was a rather long 15 minutes, but when it comes to lawyers and politicians, when they say 15, I think you have to give them 30. I do not say that as a criticism of you, but our first questioner is Mr. Cureatz and I just thought that was an admonition to him.

Mr. Cureatz: I think it is fair to say that whenever I have spoken in the Legislature, it has always been within my time allocation given to me.

Mr. Kanter: That is certainly my recollection.

Mr. Cureatz: Now that you have prompted me, be careful. I will be very brief, surprisingly, Mr. Chairman. I would like to say to Mr. Tory that we are interested if anyone has not received insurance or has been turned down. We notice the large insurance premiums some have had to pay. I only ask that. I know in my riding I can think of the community of Bowmanville, where I have been approached within the last couple of years--of a small firm that had been denied insurance altogether. We had to do an awful lot of scrambling and finally went to the superintendent of insurance, who had put a package together. We are wondering if you have had situations where people have been denied and whether there has been pursuance with the superintendent of insurance.

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Mr. Tory: Not to our knowledge. The records in that regard, in terms of whether people have insurance or not, are kept by the Metropolitan Licensing Commission, and we are not aware--I will maybe just turn around and see if anybody is nodding back here. No; none of my other colleagues are aware of any incidents of that kind.

I would suggest to you, Mr. Cureatz, that in any instance where somebody is quoting a renewal premium of \$33,000 plus, you may as well be denying insurance, because that premium is so ridiculous as to be equivalent to or worse than a denial of insurance at all.

Mr. Swart: On page 4, where you make the comment that a number of members had to meet these following conditions to get insurance, that simply means that if they had drivers who did not meet those conditions, they could not get insurance for those cabs. Would that be correct?

Mr. Tory: Yes, or that you could get insurance for those cabs and not use those drivers.

Mr. Swart: And not use those drivers.

Mr. Tory: That is right, but effectively--

Mr. Swart: In fact, they were not able because they use those drivers.

Mr. Tory: If you insisted on using those drivers, I would presume you would not be able to get insurance for those cars. The reality is, of course, that they have to have the cab on the road, so what they do is put the cab on the road with other drivers; but the pool of drivers you could use is starting to shrink down, and this is why certain of the cabs either are not being insured, because they refuse to pay the premiums and are sitting idle, or are paying very high premiums indeed.

Interjection.

Mr. Tory: Yes. Mr. Hadbavny points out that a lot of the cabs that are sitting idle are waiting for drivers who qualify under these conditions that are imposed by the Facility Association and others.

Mr. Cureatz: Mr. Tory, I was interested in your comments on page 11, something that I have often been curious about. That is in terms of the almost one-sided, unilateral aspect of insurance companies quoting their insurance rates, namely, the lack of information that, in your case, your clients have about how they have come up with the various premium proposals.

You are categorically saying that your clients do not have any kind of access to any kind of records by the insurance companies on how they justify the particular premiums, is that correct?

Mr. Tory: I think we were careful to say we have had virtually no co-operation from the industry in obtaining information. I think in some instances we have been able to obtain information which allowed us either to conclude in many cases--I will be frank--that probably a high premium was called for because of some of the records of the people driving or owning the cabs or both, but in many cases we have been unable to obtain any information.

How can we come to grips with the question of risk management and effectively sort of eliminating or dealing with very high-risk drivers if we cannot get the information we need with respect to their claims history? Of course, we can get the abstracts of the drivers' licences, so you can find out how many demerit points they have, as was talked about earlier with the consumers' association. In many cases, we cannot get the claims history, so we do not know--unless we take their word for it, which is sometimes a risky proposition--how many accidents they have been involved in or how many claims they have been involved with.

That is very frustrating for us, because how do you know? If you do not have the information, if a person says he has been involved in no claims and no accidents, you either have to take him at his word or not hire him.

Mr. Cureatz: You would think surely it would be incumbent upon the insurance company to make the information readily available so indeed your clients can evaluate the kinds of procedures you could take to try to reduce claims and therefore reduce premiums.

One has a feeling almost of the cab driver being an easy mark. It may not be the case, but it has that perception of insurance companies feeling they are an easy mark, a captured group, and therefore the premiums are justifiably high, but we do not have the proof to substantiate it. Maybe they do have the proof, but it would make the system at least appear to be fair if they would come forward with proof.

Just one final question. We are interested in page 5, which I was not aware of, about the detriment of using propane-powered vehicles on a higher insurance rate. I think surely the committee should concentrate on that. That should be some kind of recommendation someplace, some time, to try to co-ordinate the various government ministries. If we are trying to promote something on one side and yet deterring it on the other, it is ridiculous. I guess, in conjunction with that, have you taken into consideration the future natural-gas-powered cars? Is that happening yet in the taxi industry?

Mr. Hadbavny: There are very few on the road now. It is a very expensive installation. It is not so much the conversion, but to be able to supply these vehicles is a very expensive deal to put into stations.

Mr. Tory: I should just say by way of response to Mr. Cureatz's earlier comment that part and parcel of it is recognition of the fact that

some of our problems are self-induced. There is a recognition on our part that many of the people who are driving in the cab industry in Metropolitan Toronto have less than exemplary driving records. We know that. I guess what we are saying is that we need tools to come to grips with that. That is what we have had such immense frustration in obtaining from the insurance industry. We need the tools to come to grips with that, to identify these people, to retrain them, to rehabilitate them and come to grips with their driving problems and driving inadequacies. At the moment, we do not even know who they are in many cases, and that is what is so frustrating.

I do not want to be seen, nor does the association, as being here today in a position of saying that we are the best risk in town and that insurance companies should be falling over themselves to write our business. We know the business has its problems and we want to come to grips with this.

Mr. Cureatz: No further questions.

Mr. Chairman: Just before we go on, if I could, we have two more groups. I would just like to canvass the committee at this point as to whether we continue and complete those groups rather than put them to the discomfort of coming back this afternoon. Is there consensus on that so that we do not have to worry about that point? There seems to be consensus on it.

Interjection.

Mr. Chairman: Yes, that is fine. We are continuing with the ministry this afternoon, so we can do that. If there is consensus on that point, then we will proceed.

Ms. Hart: I am unable to stay.

Mr. Chairman: If members have to leave, and I understand some may have to--as long as we have a quorum.

Mr. Swart: I just want to follow up on the last point you made, Mr. Tory. Given the very real problem that you have, given the taxi business in general, would it not really be desirable to have a system whereby penalty insurance premiums in general were assessed against drivers, as they are in the western plan, rather than against the taxicabs? If you had that kind of system, then the onus would be on that individual driver rather than on taxicabs, and of course, as you suggest, you would have the full information.

Mr. Tory: This might well represent an improvement. Right now, effectively a lot of this claims history goes on the plate. That, quite frankly, is why somebody with a single remaining taxicab ends up getting an insurance renewal premium of \$33,000. There will have been some history perhaps with that plate and other plates associated with that policy before it got down to one cab, so the gentleman with the one cab is now left paying for the sins of a number of other people in the past who may no longer have any association whatsoever with the cab in question.

Of course, worse than that, that driver then moves on to work for another company or another cab operator who has no knowledge of that past history because it cannot get access to the knowledge, as I mentioned earlier, and starts on a new string of claims that then puts somebody else's insurance from \$7,000 to \$15,000. It is a kind of vicious circle that operates.

Mr. Swart: I recognize the difficulty you have under the private system of getting that money into that insurance company, etc. It is quite simple under the public system. It certainly seems to me that the major penalties should be applied to the driver, not to the cab.

I am a bit surprised on page 6, where you state that even in the wake of assistance brought by the government's intervention, premiums have been rising by significant amounts this year. Does that mean, in effect, that the drivers' records have been getting worse even though they have put in risk management, or does it mean that the insurance companies did not abide by the statement of the minister that they were not to increase rates?

Mr. Tory: No. In fairness, I think it was a matter of timetabling. The Facility Association had in fact taken the decision to impose the premium increase, which in some cases reached the magnitude I mentioned, 40 per cent, prior to the time the minister made his original statement and then his subsequent statement on this matter. That insurance increase was already in effect for what still amounts to the same premium year. What happened was that it went up 40 per cent and then, when the government took its action, it went down 10 per cent. But it was already in effect for insurance policies that were being renewed between August 1986, which was well before the government made a statement, and August 1987.

Mr. Swart: Would it be true, too, that the rate increases that were applied between January 1 and April 23 perhaps more than overbalanced the 10 per cent reduction?

Mr. Tory: Yes, I think that is quite likely. In fact, the evidence that I was able to gather from the members of the association in the course of preparing for this appearance today was that, indeed, that 10 per cent reduction, in most cases, was passed through and did take effect. I do not think there have been any 40 per cent increases since that time.

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Mr. Swart: You heard the discussion before on the bonus-malus system, of course, as practised by the Insurance Corporation of British Columbia. Do you favour that kind of system, perhaps with some of the penalties applied directly to the driver, as they do in BC?

Mr. Tory: As I say, I am not really in a position to give you a categorical answer on behalf of the association whether it favours or does not favour that, but certainly some system which would reflect more of the increased insurance premiums on the driver who is responsible for the poor driving would find favour with the members of our association, as compared to the present situation.

Mr. Swart: One final question, very quickly. I detect in your submission some implication that your group might favour a system which implemented some socially desirable policies, not purely based just on the risk, especially when you mention the propane-powered cars. Is your association, in effect, recommending that sort of thing: in other words, not to base the classification totally on risk but maybe to make some adjustment for socially desirable policies?

Mr. Tory: Mr. Swart, you know my--

Mr. Swart: I am not trying to put any words in your mouth.

Mr. Tory: You know where I come from.

Mr. Swart: That is why I specifically said the association policy.

Mr. Tory: I can only say that beyond that, and perhaps their poor choice of counsel, the association and the people in the taxicab industries really are the ultimate swashbucklers of free enterprise. I think they would very much like to see a private sector solution to a number of their problems, and I think that is inherent in the brief we have put together.

Having said that, I think they also very strongly feel they are a part of the public transportation system in the broadest sense--not publicly owned but the transportation system that serves the public in this city--and that they are in a situation where they are forced to obtain their insurance in the court of last resort, with the Facility Association. Seeing the results of that, which can be insurance premiums as high as \$15,000 or \$16,000 or maybe \$33,000, I guess we are saying that something has to be done to provide for a better result in terms of insurance, or else we are going to have a lot of taxicabs sitting idle. You are going to have a lot of complaints from the public, which cannot get service. I have a feeling that a lot of those cab drivers may well decide to park those idle taxicabs either in the parking lot of the Insurance Bureau of Canada or at Queen's Park.

It is a situation that is serious. We are looking for some help. I think there is no question that the matter of the involvement of this industry in providing transportation to the public has to be and should be taken into account in resolving it.

Mr. Swart: What you are saying, in effect, is that such things as propane-powered cars, which are socially desirable, should perhaps not be considered by the board in setting the rates; including, as a higher category, that there should be some consideration given to socially desirable policies.

Mr. Tory: I think so. I do not know what the facts are on the risk associated with propane cars, but it seems other policies espoused in other places by governments are encouraging people to use propane for conservation and environmental reasons and we are being surcharged for it. It just seems inconsistent.

Mr. Keyes: I congratulate the insurance industry on its presentation. Way back, I used to be a taxi driver, in my earlier incarnation.

Mr. Swart: Insurance?

Mr. Keyes: Not insurance; the taxi people. Many of my most educational experiences took place while being a taxi driver in my early days.

While I am not promoting it, I wonder if the industry has ever given any thought to and reviewed the situation of self-insurance in the way that school boards, municipalities and hospitals had to come to that point in order to bring some rationale into the premiums charged. To take the figures quickly, you said you have 11,000 drivers. Multiplied by the average cost of \$7,000 plus, that is in excess of \$81 million in premiums paid each year by the taxicab industry, just in the area you are representing here today. To me, that would seem to run quite a fine industry on its own.

Mr. Tory: The answer to that question, Mr. Keyes, is yes. We looked at it last year. In fact, we had the same gentleman who set up the school

board system giving us some advice in that respect. The problem, quite frankly, is that to try to organize something like that in an integrated fashion across an industry like ours, which consists of the 11,000 most rugged individualists in world history, all here in Metropolitan Toronto--they being the drivers, the owners and others associated with the industry--is something that was an intimidating task to everybody involved sitting at that table discussing it.

I would only say to you that that idea is far from dead, but the view of the senior people in the industry is that the obstacles put in place by this very unusual industry full of unusual people make it something that I guess we cannot turn to as a first resort. But it makes a lot of sense. I mean, if you look at the numbers, it could be done. But it is very difficult to get independent cab owners, on the one hand, and people who are part of fleets, on the other, and so and so forth to get involved and get behind one program that would work. You would have to have everybody in it to make it work.

So yes, we have looked at it, but it is not easy to implement.

Mr. Swart: I had some discussion with the cab owners over here and in Ottawa. Is it also not true, though, that one of the real problems in proceeding with it is the necessary capital to get started?

Mr. Tory: Oh, that would definitely be an obstacle.

Mr. Swart: Cab drivers are not notoriously wealthy as a group and they tell me that has been a big obstacle.

Mr. Tory: We did not even get to first base discussing that, because I guess we could not get the required cohesiveness in our own industry to set it up. But we are still working on that and I do not think that is beyond the realm of possibility, but it will be very tough.

Mr. Keyes: The other problem is the debate about it being capital. You pay your premium at the beginning when you come in and you have already got the \$81 million a year. The hospitals, the day they sat down to the first meeting to get together, \$13 million appeared on the table: 13 hospitals, \$1 million each for their premiums. So it is very difficult, but it is still a challenge that could be there.

The only other one was that I assume that if drivers were all insured just on the basis of their experience, so that you do not have the problem of having three years' cab driving experience to come in but you come into the industry paying insurance based strictly on your driving record, that would be a benefit for the provision of a part-time driver, which I recognize forms the greatest percentage, usually, of most cab employees.

Mr. Tory: I should say we have not had a chance just yet to review in detail the classification proposal that was put out yesterday, and we will take the opportunity to do that and perhaps provide you with some further comments in writing. Exhibit 17, which I cannot at the moment put my hands on, which I think did relate to taxi drivers, gave us some reason for concern. Exhibit 17 has fallen off the back of my--there it is.

It has given us some reason for concern because it is suggested that until you get into the range of 14 to 34 years' experience with two events--which I think, from having glanced at this, includes violations--you do not get into any reduction of premiums whatsoever. In fact, in the

categories down below, where you are talking about three to six years' experience or under three years' experience, you are talking about quite a substantial surcharge being imposed.

So we have not yet looked at this classification document that came out just yesterday. We will look at it and provide you with some comments. But to answer your question directly, again I guess it comes back to Mr. Swart's point about taking into account the social aspect of the role the industry plays. Simply to put it on the basis of driving experience might be better than today but still might not solve the problem entirely until we get a new pool of drivers who have cleaner records and take steps to implement better risk management by training these drivers better and by requiring harsher tests that they should take to get their licence and so on. It would be fairer than it is today, yes.

Ms. Poole: Thank you, Mr. Tory, for your very clear and effective presentation. I just wanted to ask a few brief questions about the risk management program. I assume this would include things such as safe driving programs, safety checks, this type of thing. First of all, could you elaborate on that, and secondly, do you have any statistics whatsoever about companies that have introduced a risk management program and how effective they have been?

Mr. Tory: On the elements of a risk management program, I guess in some respects that is what we need some assistance with from the industry, because while we have been able to identify--and I am just flipping through this report of the working group for Metropolitan Toronto--a number of measures, including higher standard special tests. We suggest, for example, the reimposition of a separate driver's licence classification at the provincial level for people who drive passengers for hire, the attaching of an abstract to a taxi driver's licence renewal, so that in order to get that renewal you have to have your abstract attached, so that we have ready access to somebody's driver abstract, and so on and so forth. I will not take the time to try to put my hands on the various elements we can identify.

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I guess what we are saying here today first and foremost is that in order to really put together a plan like that, we are not experts in that. I am not an expert in the taxicab industry at all. My friends are experts in running taxicabs and not risk management programs. We need the help of the insurance industry to put that together.

With respect to the second part of your question, I do not know whether Mr. Hadbavny has any information he can relay to you with respect to the past history of trying these programs and seeing whether they work.

Mr. Hadbavny: Risk management programs have been in force in the industry for a number of years in terms of keeping track of individual drivers for their accident experience in fleets. But, as was mentioned before, they get lost when the driver moves on to another fleet or another company; the records do not necessarily follow him. We have recommended or requested the insurance company to stay with us and supply us that information, but that has not happened to this day. They have abandoned it.

We have implemented, and are practising today, the criteria they gave us. It describes utilizing drivers with a very clean driver's record and again not being able to use the drivers who come in--how should I put it; the

brand-new man who comes in off the street, who has graduated from the cab driver college and has an extremely clean record; if he has not driven a cab for three years, therefore we cannot use him now. I do not know how we overcome these obstacles without the help of the insurance companies, the insurers themselves.

Ms. Poole: I have just one final brief question. Do you want to go on, Mr. Chairman?

Mr. Chairman: No, that is all right. Go ahead.

Ms. Poole: I just wondered if you had any information from the provinces that have government-run schemes as to how they treat taxicabs and whether the rates are as astronomical as we have here in Ontario.

Mr. Hadbavny: We have had information, but it is not documented here, on the rates. What was given to us was most attractive as far as we are concerned. Beyond that, we have not got--

Mr. Tory: We have some information, which we could supply to you and which we will. I should just point that there was a taxicab conference recently where it was indicated on the part of some people representing the Japan federation of taxicab associations that one million people use taxis in Tokyo every day; there are 50,300 cabs. It talks about the average fare and then says it costs C\$4,312 per year to insure one vehicle. Perhaps we should do a little more research on the Japanese experience as well, because they are obviously getting away with insurance cheaper than we are.

Mr. Chairman: Ms. Poole, are you finished?

Ms. Poole: Yes, that is fine.

Mr. Farnan: A comment first: I do believe that the interests of the taxi drivers would certainly be well met by the driver-owned scheme. I found it somewhat interesting to have Mr. Keyes suggesting self-insurance for the taxi industry. We are offering self-insurance to a variety of groups. The only group we are refusing self-insurance to is the drivers of Ontario in a publicly owned scheme. That is quite ironic.

The question I want to put is this: Basically you have described on two occasions 11,000 of the most rugged individualists in all history and the last of the swashbuckling free enterprisers, and here you are seeking government intervention to protect your position. Certainly you put forward many requests.

Mr. B. Nixon has alluded to the 13 per cent reduction in plans in the United States, which was a statement in the previous delegation. How would your group feel if the result of this process--and I am sure you would appreciate a 13 per cent average reduction--if these other aspects you presented were not included in the final draft?

Mr. Tory: I think, if I understand the question, it really speaks to the issue of how it is consistent for us to come forward and ask for this kind of help, in fact government intervention on the one hand while on the other hand being a sort of free enterprisers of the kind that I described. I think I can answer that very simply.

I think the members of our association believe that the role for government to play in all but the most exceptional of circumstances is to act

as a policeman, and that by and large they should leave the free enterprise system to the free enterprisers and let them operate that system.

In this case, we are already talking about a regulated industry. As I said at the outset, the fares that are taken in by members of this association are regulated by government already. But I think that what we are coming forward and asking for in this instance is not for the government to take over the taxi industry, not for the government to take over the insurance industry, but rather just for the Legislature to put in place measures that will ensure that there can be a basic element of fairness available to people in an industry such as this, which is important to the public.

I think the members of the association believe that is the proper role for government to play--not to come in and take over industries but rather to put measures in place which ensure fairness for people and, that framework being in place, hopefully people will receive fair treatment. I do not think there is any inconsistency in that at all.

Mr. Farnan: I will respond very briefly by saying that the goal remains the same in terms of seeking fairness, whether it be a public plan or whether it be setting up a board. The question that remains to be answered is, which plan will actually produce the fairness? That in fact is of essence.

Mr. Chairman: I think that is a rhetorical question, and I do not think it requires a comment, Mr. Tory.

Do you have any further questions, Mr. Farnan?

Mr. Farnan: No, thank you.

Mr. Chairman: Mr. Nixon, do you have any comments? We will then try to move on to the next one.

Mr. B. Nixon: In response to the last question from Mr. Farnan, I would like to remind the committee that Bill 2 has received approval in principle from the Legislature. In that regard I would particularly like to thank the brokerages association who just made their comments to Bill 2. I find it very helpful. I might also add that I am disappointed that the Insurance Bureau of Canada has not been more responsive to your entreaties to it. Perhaps we can discuss that more later.

I would also ask the brokerages association to take the time, if it will, to make comments on the classification system. I think the classification system will go some way to resolving the many problems you face. At least there will be full disclosure of the risk classification in which a taxicab driver finds himself and a disclosure of the price at which the product is available on the market. We welcome and ask for your comments in that regard.

Mr. Chairman: Thank you very much for coming. We appreciate your comments. They have been helpful.

The next delegation is the State Farm Mutual Automobile Insurance Co. Clifford Fraser, Steven Lehmann and Ms. Carla Temple are all here. We see a fourth person. Perhaps you can identify all of the people for the purposes of Hansard.

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STATE FARM MUTUAL AUTOMOBILE INSURANCE CO.

Mr. Fraser: My name is Cliff Fraser. I am vice-president with State Farm Insurance in Scarborough. On my immediate left is Carla Temple, our lawyer. On her left is Steve Lehmann, an actuary. On my right is Ron Frizzell, our automobile manager for Canada.

Mr. Chairman: I believe you were present when we indicated how we would proceed here. I gather you have a brief. We would like to provide time for members to ask questions as well. So if you would, proceed with the brief.

Mr. Fraser: Thank you. State Farm is the world's largest insurer of automobiles and first opened an office in Ontario in June 1938. We have been here for 50 years and have currently achieved the status of being the second-largest writer of auto insurance in Ontario. As a mutual company, we have a strong responsibility to protect the interests of our policyholders and to maintain an environment where the motoring public is able to buy the coverage it needs at a price it can afford and from a company that it knows stands ready and able to pay its claims.

State Farm is a multiple-line insurance organization. In this province, we insure about 425,000 automobiles, 270,000 properties for fire, and 50,000 lives. We also have 300 agents spread throughout the province who work exclusively for State Farm, in addition to their staffs. We have 500 full-time employees in our main office in Scarborough, and, throughout the province, a claim service office network with drive-in facilities and company-owned service centres.

Our commitment to quality claim service is reflected in our network of efficient claim service offices staffed by approximately 300 professional claims people. We are also linked by computer with all of our offices throughout North America for claim service wherever accidents may occur.

In Ontario last year, State Farm handled approximately 14,000 personal injury claims and 90,000 vehicle damage claims. We feel we are a good corporate citizen and taxpayer. In addition to the payment of various business-related taxes, all income earned and other financial assets attributable to the Canadian operation are invested in Canada. What is earned in Canada is invested here, in Canadian issues, municipal, provincial and federal bonds and debentures of Canadian corporations.

We feel our commitment to provide quality insurance products for our customers, our investments in Ontario and our economic contributions to the province qualify us to comment on the proposed auto insurance board legislation; in particular, with respect to certain provisions in the bill which we feel are not in the best interests of vehicle owners and drivers in this province.

The provisions of Bill 2 which we feel do the greatest disservice to the insured public are those which prescribe a uniform classification system and which empower the board to set rates or a range of rates to be used by all insurers. These provisions are unduly restrictive and diminish the benefit to the consumer of the current openly competitive free enterprise rating environment.

I would now like to ask our legal counsel, Carla Temple, to elaborate on some of our concerns.

Ms. Temple: Historically insurance companies have been free to look at various rating characteristics and determine which of those characteristics in their opinion were indicative of future experience. Based on prior experience for a particular group of risks, companies have been free to determine the appropriate rate for that group as reflected by their own book of business. A consumer who was alert to the marketplace and willing to shop around could find the company that was best suited to his or her own particular needs and rating characteristics.

This act does away with many of the options previously offered to consumers by requiring uniformity among companies. The only flexibility that remains is a limited range of deviations from the benchmark rate established by the rating board.

Insurers have found that sex as a classification is a significant variable for evaluating the risk posed by youthful drivers. Statistics gathered over many years indicate that women have better accident records than men, particularly in the case of drivers under the age of 25. Men have approximately two times as many traffic accidents as women. Often the risk of men being in fatal accidents is four or five times greater.

These differences in accident rates of men and women are not explained by differences in mileage driven. Men have more frequent accidents within all categories of mileage driven.

We question whether it is really more fair, as stated in the purpose of this legislation, for all drivers, in particular young females, to pay the high-loss cost of young male drivers. Surveys show that neither men nor women think that unisex pricing is particularly fair when the actual effects of premium dollar increases and decreases are described.

State Farm has had experience with rating boards in Canada and the United States. The effectiveness of a rating board varies greatly depending upon the restrictiveness of the law as well as upon the means of implementation. The type of rating board authorized and proposed in Bill 2 has been tried in various areas of the United States, and for the most part, the rating board which establishes uniform classifications and rates has been replaced by more flexible and competitive rating laws.

There are several reasons for the demise of rating boards.

First, the very process required to set a benchmark rate for all companies is cumbersome and slow. The speed and accuracy of the data are established by the lowest common denominator or the least efficient company. By the time new rates are implemented under the proposed system, they will be based on data that are at least 18 to 24 months old and seriously out of date.

Under the current regulatory system, our company is able to get its own statistical loss reports within a few weeks. We are then able to make necessary adjustments to these numbers and to implement necessary rate changes within a few months.

Second, the increase in the lag time between the collection of loss and expense data and its reflection in the rates charged decreases the stability of rates. The longer the period of time between the collection of data and its

projection into the future, the more adjustments and assumptions that have to be made and the less accurate those projections are apt to be.

By their very nature, rating boards have to establish rates based on the experience of the least efficient company, both from an operating and an investment perspective.

We believe that regulation clearly has a place in the automobile insurance industry. However, we would suggest that the citizens of Ontario would be better served if regulatory efforts and resources were directed at insurer solvency and consumer protection issues rather than trying to set the price for each insurance risk. If an insurer's solvency is suspect, then it may be appropriate for the regulatory body to intervene and ensure that the premiums charged by the individual insurer are adequate to sustain the anticipated claim payments. In virtually all other situations, the competitive marketplace is the best indicator of appropriate price.

It is doubtful under Bill 2 that the rating board would have any particular knowledge of the solvency of companies that are filing rates. Without special knowledge of the financial condition of a company, how can they determine rate adequacy for a particular company?

In accordance with this thinking, the provisions of section 25 require prior approval of dividends. We believe these are unnecessary and counterproductive for financially healthy insurers. State Farm is a mutual insurance company. As such, we believe that our policyholders deserve to share the profits of good years. For instance, we paid \$5.5 million in dividends to Ontario policyholders in 1983 and over \$9 million in 1984. If an insurer makes a greater profit than anticipated and wishes to return a portion of that profit to its policyholders, the company should not be hindered or delayed in attempts to pay a dividend. We fail to see how prior approval of dividends either benefits or protects consumers.

Very serious problems exist in areas where uniform classification and rating systems are required, and where proven rate characteristics such as age and sex are disallowed. Insurance availability in the voluntary market may become an overriding concern, particularly where an attempt is made at the same time to artificially suppress rates.

In Massachusetts and New Jersey over 50 per cent of all auto policies are written in the states' reinsurance facility or underwriting association. In North Carolina over 25 per cent are written in the facility.

The cost to other drivers in these states of subsidizing these overpopulated residual market mechanisms is incredibly high. Drivers are placed in the Facility because insurers and agents know that they are underpriced in the voluntary market.

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Right now, less than two per cent of the insured drivers in Ontario belong to the Facility. The losses of the Ontario Facility have remained manageable because the population has remained low compared to the voluntary market. We fear that a rating board as provided in Bill 2 will lead to major market dislocations and unavailability of liability insurance for a large segment of the voluntary automobile insurance market in Ontario.

The voluntary market is currently split into many different rate levels between the lowest rate and the Facility rate. Companies frequently have several different rate levels and slot insureds into the different levels based on established underwriting criteria. Without this rate flexibility or with it limited to a 20 per cent differential, companies will be faced with only two choices. They may either write the risk at their best rate or place the risk in the Facility.

If a rating board is determined to be necessary, we would like to suggest a rate review board similar to the existing board in Alberta rather than a rate-setting board as proposed. Alberta allows companies to use their own experience and to file their own rates, but those rates are subject to prior approval. Alberta does not require that all companies use a uniform classification system, and Alberta specifically rejected a proposal to do away with the use of age, sex and marital status as rating criteria. The rate board in Alberta reviews each company's rate filing based on that company's experience with its insureds, its own expenses and its own investment returns to determine whether the rates are reasonable and fair for that company to charge. Companies are allowed the flexibility to establish new rating criteria which they feel may be more accurate, as long as those rates are approved by the board.

One item of particular concern in the proposed legislation is found in section 18. This section of Bill 2 provides that an appeal from a board determination lies with respect to questions of law or jurisdiction. No appeal is provided for the board's determination of questions of fact. Although we would agree generally that the board's determination of fact should stand, we feel an appeal would be appropriate in instances where that determination of fact by the board is not supported by a substantial weight of the evidence presented at the hearing. If the board is allowed to determine the facts of the case without restriction or any prospect that its findings will be reviewed on appeal, we would suggest that the facts of the case may not always be determinative of the outcome.

Section 27 of the act allows the superintendent to issue policy statements which take effect immediately on publication. Since as a practical matter these policy statements may have the force of law, providing an opportunity to request a public hearing or to provide comments would be appropriate in that instance.

Now I would like Steve Lehmann to give you some examples of what this legislation will do to our insurance rates.

Mr. Lehmann: I would like to briefly address some of the potential effects of the proposed elimination of age, sex and marital status on the premiums for youthful drivers in Ontario. Obviously, until the proposed classification plan is finalized, any figures at this point are simply estimates, but we hope to give you some idea of the potential impact of these changes.

Although the plan proposes the elimination of sex, marital status and age, it is my understanding that the new class plan as structured right now would include the number of years licensed. Since this can be viewed as a substitute in some ways for age, we have calculated the impact on State Farm rates of the elimination of sex and marital status only.

Perhaps I could ask you to turn to page 2 of the second exhibit. If you turn to the second page of this exhibit, at the bottom of the page is a set of

numerical examples illustrating the impact of the elimination of sex and marital status on average rates for State Farm in Ontario. I want to say right at the outset that these rate examples apply to State Farm only. Obviously, the effects will vary significantly, depending on which company you are talking about. These are for State Farm. These examples also assume that the new rates for males and females combined will be equal to the average of the existing rates.

As you can see, our best estimate at this point of the impact of the elimination of these factors would bear most significantly on the young married couples and on the young single females. Young single males would receive substantial reductions as a result of this proposal.

The rest of this second exhibit discusses some of the problems with the use of alternatives to sex and marital status. Basically, after many years of searching, we have found no substitutes for these variables which have the same predictive accuracy in determining rates based on the actual cost of insuring drivers.

One final point. I heard this morning several mentions of a basic principle of insurance, that is, spreading the risk. I submit that another basic principle of insurance is allocating those costs of insurance as fairly as possible amongst the policyholders. When it costs two to three times as much to insure youthful males and females, I think it would be unfair to require experienced drivers to pay for or subsidize those drivers.

I would be happy to answer any questions.

Mr. Swart: I would like to come back if there is time left over, which I do not think there will be. I do not want to take up much time.

You mentioned the demise of the rating boards in the United States, Mr. Fraser. Do you have any information with you, or could you supply information to this committee? It seems to me it would be rather important to this committee. This is not something new that the government is proposing. There is experience in numerous other places, some of some length. It would be helpful, I think, if we know that experience. Could you give me offhand the number of boards that have either ceased to operate in the United States or have changed their policy substantially with regard to the rate setting.

Ms. Temple: I believe I mentioned that. Basically, what happened was due to some antitrust laws and court decisions in the 1940s. Many of the states in the United States proceeded to quickly implement rate boards, which did precisely what this board does, set uniform classifications. Everybody had to charge the same rate and you were allowed to deviate, like 10 per cent, or whatever you could justify from that rate. I do not now at the height how many of the states did have those types of boards. I would say the majority of them did have those boards.

There are now basically three states which still have rate-setting boards such as this left. The other states have gone to some method of prior approval, filer use or open competition. The thing we see is that there is a very high correlation between the type of ratings regulatory system you have in place, and the type of residual market mechanisms or unavailability problems you have. When you try to push everybody into one criteria, one category, one set rate and say everybody has to charge this rate, then companies have lost all their discretion. They cannot say, "Well, I think this person may be a good driver, but let me try him out for three years at a

little higher than my normal rate, and then if he does prove to be a good driver, I will put him into my best rate."

Right now we have some of that flexibility. Under this system we would not have that. So what happens is the company says, "I know that new people are coming to me; my experience with them is not as good as my on-board experience," so they do not want new drivers. It all goes to the Facility. Then what happens is you have got a Facility that is as large or larger than your voluntary market. They have very high losses. You try to spread those over your voluntary market, which is half the size of what it used to be, and they are picking up a major cost that they should not be picking up. They are your best drivers and they are paying for the accidents of everybody else, and there is no incentive for the poor drivers to do any better.

Mr. Swart: We have a difference of opinion on the philosophy of charging male drivers more, or young female drivers more, for that matter, but I want to ask you if it is not true in Alberta that the Human Rights Code, in fact, the legislation, does prohibit rates based on age, sex, or marital status. What, in effect, has been done is that the government there has given postponement year by year or two years by two years. That fact is not mentioned here, but the legislation there does prohibit rates based on that under the Human Rights Code.

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Mr. Fraser: That is correct. I was on a commission chaired by Judge Wachowich about five years ago that studied the entire matter of elimination of age, sex and marital status. In its wisdom, the government decided it was a proper rating criteria and gave the insurance industry an exemption under the act that you refer to.

Mr. Swart: They have not repealed the act, though. It is still on the books there.

Ms. Temple: I think also a distinction needs to be made between what is fair discrimination and what is unfair discrimination. Basically, you have discrimination of sorts in everyday life--age discrimination as to who is allowed to vote or who is allowed to drive. You have sex discrimination in the military, who is allowed in, who is not. A lot of that is determined to be fair discrimination.

What we are saying here is that we have proven rates. We know, you know and everybody knows that young male drivers have high accident rates. There are not just more accidents, but there are definitely more severe accidents. Why should the young females pay for that? That is essentially what is happening.

Mr. Swart: I am not suggesting young females should pay for it. I am suggesting you can take that kind of discrimination a bit further too. If you did not want to discriminate at all, you would charge rates only to people who have had accidents. There are many good young drivers. I know many of them. It is an injustice that they pay those kinds of rate, but they must.

Can you tell us now or can you provide us with--and I think this is important in our whole consideration of the auto insurance issue--what are your total expenses? I am talking about all expenses of your company annually. I am talking about costs of settling claims, claims adjustment, as the terminology goes, marketing, all the rest of it. What are those as a

percentage of the premium dollar that you received year by year over the last five years. Can you give us a figure? If not, can you provide it?

Mr. Fraser: Roughly, in Ontario in our automobile insurance portfolio, our expenses would run about 31 per cent of the earned premium, which includes acquisition costs such as commission, claim adjustment expenses and things of that nature. A considerably higher figure was mentioned earlier, and I think it just indicates that there are wide differences among insurance companies. One of the advantages we have in controlling expenses is that we have our own staff of some 300 claims people in this province and drive-in claim facilities, which tend to mitigate the costs compared with using independent adjusting services and things of that nature.

Ms. Temple: Along that same line, I too have looked at some of your government insurance programs, and I think if you look at those in terms of the percentage of our expenses that we are paying in taxes, income taxes and our expenses for buildings, that kind of thing, we are contributing to the economy of Ontario and the government in that sense. If you compare that with your government programs, where not only are they not paying in those additional taxes but they are actually using government property and they are subsidized by the government in an indirect sense, you are going to find that we are more efficient than the government program.

Mr. Swart: We will have them here too. I have heard those before and the statistics, of course, do not bear them out. I would like to carry this on further, but I know there are other people who want to ask questions. In fact, the Insurance Bureau of Canada did provide us with figures. It is shown there at 42.5. I have this here. I would want to see an average. I am not suggesting your figures are low, but I wonder if you would send us those figures for the last five years.

Mr. Fraser: Yes.

Mr. Swart: You will provide them for the committee.

Mr. Fraser: On the Ontario experience, yes.

Mr. Swart: Yes, the Ontario experience for your company is what I am asking for.

Mr. Fraser: Yes, we will do that.

Mr. Swart: Including all expenses.

Mr. Fraser: We can break them down into components.

Mr. Swart: Incidentally, Information Manitoba pays 2.6 cents in taxes. Ontario pays 3.3.

Mr. Fraser: That was recently introduced, yes.

Mr. Swart: It is 2.3 according to the Insurance Bureau of Canada. There is not a great difference.

Mr. Runciman: I was wondering whether the witnesses had an opportunity to take a look at the Mercer report that was tabled yesterday with the committee. That is the distributive effects of the unisex classification plan.

Mr. Lehmann: We really have not had a chance to study it. I looked at it briefly last night, but only very briefly.

Mr. Runciman: From what you have read in the media, it obviously appears to be significantly different from--

Mr. Lehmann: A couple of things from my review of the study last night. The Mercer study concentrated, I think, almost all of its attention on the Insurance Advisory Organization rating system. The report mentions, quite rightly, that this does not apply to all insurance companies and that some companies had different rating systems to the IAO system.

We do have a significantly different system. For example, State Farm charges an adult rate for a youthful married female, so the female under 21 years old is rated as an adult by State Farm. That is not true of the IAO. That is an illustration of some of the differences.

Mr. Runciman: When the Consumers' Association of Canada appeared earlier, it mentioned the 13 per cent difference in the American states that have a rate-setting board in place. The parliamentary assistant reinforced that after it had left, saying, "This is great stuff." I am just wondering what your reaction is to that, if indeed that is the fact.

Ms. Temple: I am not familiar with that number or the General Accounting Office report they referred to. I guess I am wondering if that had to do with insurance rates or if it was a public utility situation where you do have a monopoly and where states with a rating board can control that monopoly. It is a totally different situation.

As the consumers' group or somebody earlier in these hearings indicated, there are some 170 insurance companies competing in Ontario. Part of what I tried to say earlier is that they are competing for different segments of the market. State Farm may have the best rate in some areas and not in others, but that is part of the glory and we can experiment with who is a good market for us and other companies can do the same. Under this proposal, none of that flexibility is going to be there. Basically, a person is going to get the same rate within a pretty narrow range anywhere he goes.

Mr. Runciman: You are not only in the auto business; you are in life and other areas?

Mr. Fraser: Yes.

Mr. Runciman: I guess one thing often perplexes consumers when insurance companies tell us, "Look, we are losing money in this business." There was a recent report that they lost \$300 million or something like that last year; I do not know the exact figures.

Mr. Swart: It was \$330 million in 1986.

Mr. Runciman: One has to sit back as an average consumer and ask, "Why do you guys bother to get into this business if it is a money loser for you all the time?" If you have a rather simple and brief response to that, I would like to hear it.

Mr. Fraser: The loss side you are referring to is the underwriting side: the premiums taken in and claims paid out in that given year. There is obviously some that comes through investment income. All the assets of the

organization are invested--for example, State Farm has close to \$550 million invested in this province and the other provinces in which we operate--so that gives you an investment income. That belongs to our policyholders. We use that income to offset needed premium increases and so forth. You have to consider the whole pie and, of course, we do in our rate calculations.

Mr. Runciman: I do not know if that really answers it for the consumers. Has your firm been losing money in the last number of years in the auto sector?

Mr. Fraser: In an underwriting situation, as I described, yes. We have had years where we have been profitable, back in 1983 and 1984, but the last three or four immediate years have been a loss in Ontario on the basic underwriting side. We have been profitable in the other provinces.

Mr. Runciman: But it is still a net benefit to you to stay in the business?

Mr. Fraser: Yes. We have our investment income that offsets those losses to a large degree and, of course, it provides a livelihood for many hundreds of people in this province.

Ms. Temple: One of the other things that might go in here is that what you are looking at is Ontario. The fact is that we are operating in a lot of different markets. We have lost money in Ontario in the last couple of years, but we obviously have some faith that we will be able to make money here at some point. The other thing going on is that in other areas we are making money. So we are subject to the same economic cycles or to similar economic cycles as every other business. We have good years and bad years. So you have to make money in the good years to make up for your losses in the bad years. But I guess we believe overall that we should be allowed to make a reasonable amount of profit and can do that.

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Mr. Swart: Mr. Fraser, the \$330-million loss, which was stated as a loss, is not a true loss-profit statement. That it is an underwriting loss which, as you know, does not include any revenue. That is what you are suggesting. It is not a true loss of profits.

Mr. Fraser: I do not quite agree with the word "true." I do not think the industry has ever hidden the fact about its investment income because it is public information. We pay income tax on the bottom line--investment income is included--and then we get into a 50 per cent tax situation on our net profits, so it is certainly not hidden, not from the government of Canada or the government of Ontario.

Mr. Swart: When I say "true," I am talking the general, I suppose, accounting policies of most companies, the bottom line. It is not the bottom line, the \$330-million loss.

Mr. Fraser: Not the bottom line on our financial statement, no.

Mr. Runciman: Two or three quick questions. You made reference to preparing statistics and the delays that were going to be involved in terms of pulling those statistics together--18 and 24 months old. In terms of this legislation, we were told yesterday that the superintendent of insurance was suggesting quarterly reports, that they are going to put in whatever is

necessary in terms of computerization and so on, to be able to keep on top of these statistics, to be able to do the job. I just wonder how, as experienced professionals, you react to that. Is that feasible?

Mr. Fraser: I think it is going to be very difficult. We have statistics gathered today. We call it the green book, which is really a government book. It is compiled by the insurance industry acting under the auspices of government, and it takes a long time to gather those figures. Whether a board would somehow speed up the process is debatable. I frankly do not think so. I think the point that Ms. Temple was making is that as one company, with complete control over the statistical base of its own book of business, we can act instantaneously and get our figures. Frankly, I have figures about our experience from December, and this is just early January.

But when you put 170 companies together you have to follow the weakest link, and if one company takes several months to put its figures together, the whole industry waits. So I think that is the problem in dealing with a universal program, such as a rating board, to have universal rates. If it takes a long time today, I do not think you have seen anything yet, compared with tomorrow.

Mr. Runciman: I would just like to know your reaction to the section of the bill that empowers the government to send inspectors into your offices to seize files, go through every aspect of your operation, go home and look in your closet, what have you.

Mr. Fraser: I personally have no concern; however, speaking for many folks in my position, it is horrifying to think that they could enter my home with just some edict from a justice of the peace or something and through the process of searching for records that might be relevant to the insurance industry, paw through every other personal item I have in my private residence. It is shocking for a situation like insurance.

Mr. Runciman: Those are good words--horrifying and shocking--and I share with you that feeling about it. I am just curious about--just before you leave, I would like to know what you, as people who have been involved in the business for a great many years, see the future holding for your industry in this province, assuming we are going to go ahead with this kind of legislation--given the numbers the government has in the Legislature--the kinds of problems it is going to pose for you. I have suggested that in my view it is a first step towards government-run auto insurance, because simply a lot of the folks who are involved in the private sector are going to find business in Ontario less and less attractive. I am just wondering what you see for the future.

Mr. Fraser: I think as you compress the competition based on price, it has been suggested there will be a range of 20 per cent, 10 per cent over benchmark, 10 per cent under benchmark. This will tend to force the buying public to look at service rather than price. If price is not really a criteria, other than by a few dollars either way, then the consumer will think: "Who provides the best service? Who has a visible claims office? Who is a name brand?" and this type of thing.

The State Farms of this world will survive. I think the unfortunate consequence is many of the smaller Ontario and Canadian companies will withdraw from the marketplace, because the consumer will not choose these smaller mutual companies and so forth that flourish throughout this province. That will be an evolutionary process and I think it should be considered seriously by the government.

Ms. Temple: The other thing, I guess, I might add to that is it is very clear that companies put their money where they have faith in the regulatory system. It is very clear to me, as I see the different areas where we add agents, we add claim centres and that type of thing. We have been adding claim centres in Ontario because it has been a good place to do business. Now whether that continues and whether people are still willing to put resources where you have this more rigid limitation in your ability to do business is obviously a question.

Mr. Chairman: Do you want a question, Ms. Poole? Make it short.

Ms. Poole: I will make it very short. Actually my question was asked by Mr. Swart on the rating boards in the United States. I would like to clarify something from Mr. Runciman, though very briefly. Unless Mr. Fraser or his colleagues are in the habit of keeping their business records at home in their closet, I really do not feel that he has anything to fear about them invading people's private property, since section 12 of the act makes it very clear that it is the place where the insured carries on business or keeps business records. So I just wanted to offer that reassurance, and to also thank you very much for your data on how good we female drivers are. I shall be framing it this afternoon and presenting it to my husband this evening. So thank you.

Mr. Farnan: Just two quick questions. You mentioned a range as being not that significant. Would 20 per cent not be a significant range in price?

Mr. Fraser: I think in practice what will happen is that the companies will cluster around the benchmark rate and then deviate downward. Obviously companies that would go on the high side of the benchmark would not write much business. So while theoretically there is a 20 per cent price range, I do not think in practice it will be that high.

Of course, we have bandied around the 10 per cent deviation either way. The scary possibility is that there would be no deviation whatsoever. The board may just determine a rate with no deviation. It could be five per cent. It could be 15 per cent. I certainly do not know, and I participated on the government classification program that developed that. So it is all theoretical speculation.

Mr. Farnan: And the other question is when you were describing the insurance industry and the fact that the option is there for some degree of specialization, you suggested that this was a good thing and some companies could move in one area, and another company in another area. What companies are attracted to the high risk area? Is it not true per se that by and large, as a rule of thumb, I would have thought that the insurance company would be attracted to a fairly stable, predictable area where they could generate perhaps a fair profit, but that they would not be looking to go into the speculative area?

Mr. Fraser: There are companies here. You have one on your list that appeared before you of progressive casualty, which is a specialty rider. Some of these companies tend to market for the higher premium type risk. Markel gets into a lot of commercial vehicles. State Farm targets the family insurance needs. It is primarily because of our agency network, that all of the insurance they write stays with State Farm. So naturally we do not get into big commercial risks where it has to be brokered around among many different companies. So we write the little car, the little home, the little life, so to speak, and that has made us the largest insurance corporation in the world. But there are many specialty underwriters in this province, yes.

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Ms. Temple: The other thing is that high risk, as you indicated, is a predictable risk also, just as a good risk is. It is just predictable that they are going to cost the company a lot more money. So I think the predictability is still there whether it is a high risk or a low risk. It is just a question of what is it going to cost to pay the claims for that risk.

Mr. Chairman: Mr. Nixon, just briefly.

Mr. J. B. Nixon: I have a couple of quick questions. State Farm is a mutual insurance corporation.

Mr. Fraser: Yes.

Mr. J. B. Nixon: So who is the effective owner of the corporation?

Mr. Fraser: The policyholders.

Mr. J. B. Nixon: Would it be fair to describe it as a driver-owned insurance program?

Mr. Fraser: Very much so.

Mr. J. B. Nixon: In your brief on the alternatives to gender-based auto insurance rates, you referred to the increase in price which may occur when we eliminate the use of gender-based discrimination in determining auto insurance premiums. When you did that analysis, did you have before you the proposed uniform classification system?

Mr. Lehmann: We did not have the final details. We had some preliminary information about what was being considered, but obviously that plan is evolving. Until that plan is finalized, anything that we can give you is only an estimate and has to be regarded as a preliminary estimate.

Mr. Fraser: The simple answer is yes.

Mr. J. B. Nixon: But none the less, is it not fair to say that the actual weights to be applied to various variables in calculating the premium has not been finalized and so, indeed, it is still a guess or an estimate, speculative?

Mr. Fraser: In our best informed judgement, we will not know until the board makes those decisions.

Mr. Farnam: I think it is important to put into the record, in response to Mr. Nixon's remarks, that it is a driver-owned insurance company, yes, but let us be realistic. We are talking about two different things. We are talking about investors, where there are shareholders--

Mr. Fraser: No shareholders at State Farm.

Mr. Farnam: Are there no shareholders?

Mr. Fraser: No, sir.

Mr. Farnam: Okay.

Mr. Fraser: It is owned by policyholders.

Mr. Farnam: Policyholders.

Mr. Fraser: It is a mutual company and that is why we spent some time in addressing the dividend aspect. We have returned millions of dollars back to our policyholders through dividends which a normal company would give to their stockholders. That is the difference. Carla had the figures. It was \$5 million one year and \$9 million--

Mr. Farnam: What percentage of the total?

Mr. Fraser: We would have to go back to what we wrote at that point. We can get you those figures.

Mr. Farnam: I would think they would be fairly significant. I figured that you would have a ballpark figure in your head.

Mr. Fraser: We will write about \$300 million auto this year. I guess back in 1983-84 it might have been about \$125 million, something like that. So it would be in the range of four, five, six, seven per cent. One year it was \$5 million and another year it was \$9 million.

Mr. Farnam: Which, I think, makes the point.

Mr. Fraser: For example, in Alberta currently, right at this moment, we are going through the process of a 20 per cent dividend refund to all of our Alberta policyholders.

Mr. Chairman: Thank you very much. We appreciate--

Ms. Poole: I have a very brief supplementary on that point.

Mr. Chairman: I think not. Thank you very much. We appreciate your coming forward and giving us the information you did.

Mr. Chairman: The next presenter is Jeff Gray, a lawyer, from the Automobile Protection Association.

I am sorry, Mr. Gray, that we have been delayed in getting to you, but we were late starting, as you know. The first couple of days are normally a little less swift because we are just getting sort of a feel on the more significant questions and probing questions that are being asked.

Do you have a written submission?

Mr. Gray: Yes, a very short brief.

Mr. Chairman: A very short brief, that is what we like.

AUTOMOBILE PROTECTION ASSOCIATION

Mr. Gray: As probably the speaker coming up before lunch so I will do my best so we can all depart for lunch at a reasonable time.

As opposed to reading the brief verbatim, I will go through it from start to finish in a paraphrased version, again in the attempt to save some time.

The Automobile Protection Association, which I will refer to as the APA to save some time right there with the lengthy name, represents approximately 17,000 consumers across the country. Most of our members are concentrated in Ontario and Quebec, but we do have members from coast to coast.

One of the key comments which the APA receives concerning automobile insurance is the cost of premiums, in Ontario specifically. It is for that reason that the APA asked to make submissions before this commission.

Today, the APA congratulates Mr. Swart and his party on their analysis of the auto industry in Ontario. Mr. Swart and I have talked in the past and we discussed our various views on the topic.

There is also a question of lack of confidence in the system. Consumers never know from one year to the next how high their premiums will go from the year before.

The current government has made virtually no progress in getting any closer to a public automobile system in Ontario other than the draft bill concerning the regulation of rates. For the past three years, the annual premium increases have been approximately 20 per cent per year for an overall increase of about 65 per cent over the last five years.

The APA has reviewed numerous documents prepared concerning western public automobile systems and, in particular, Manitoba, Saskatchewan and British Columbia. One of the most critical comparisons made is that of the young male driver; that driver seems to come up quite constantly in terms of analysis of premiums between the public and the private auto insurance systems.

In the brief, we have compared a 21-year-old male driver with what we would call a clean driving record. That driver in Ontario would pay approximately \$2,400 annually for automobile insurance. For the same coverage identically for the same driver in a public insurance situation, that premium would be about \$512, or almost 20 per cent of the Ontario rate.

In conjunction with the public automobile insurance system, the APA also supports a no-fault system. The no-fault system seems to alleviate a lot of discrimination based upon age, sex and marital status, no-fault being primarily designed to compensate victims as opposed to penalizing them.

The APA feels that a public auto insurance system would significantly reduce premiums, that if Manitoba can be used as a good example of how a public system can run, the premiums would be reduced not as a result of subsidies from the government. These systems have received some compensation, or some input from the governments' pocketbooks but not to a great extent. Very often it is for startup costs and not for anything more.

We feel that there would be a more efficient use of premiums in terms of investment, and in terms of an investments of return-on-investments towards reduction of premiums.

From the current situation, many of the major auto insurers in Ontario will take their investment income and ship it abroad, back to the United States, to the parent companies' coffers for example, whereas a public system would invest that money directly back into the Ontario economy. It would, perhaps, improve the premiums by reducing them, the efficiency of claim settlements, the opening up of more drive-in claim centres and things of that type. That would be perhaps one of the priorities in terms of reinvesting

income within the province, which would not be one of the priorities in a private system.

What happens in a private system is that very often the private insurer tends to subsidize each office of other provinces and of the United States by taking the earnings from a more profitable jurisdiction, which for most part can be Ontario with a great number of drivers insured in Ontario. The APA feels that is unfair. If the premiums are from Ontario then the money should be reinvested in Ontario and not be sent elsewhere.

As well, the government can tap the resources of many of its own experts in terms of where to invest the money. It could perhaps take less risky investment strategies at heart and invest the money more lucratively.

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Another concern of members of the APA is the arbitrariness with which private insurers cancel policies. Very minor accidents can result in an insured being cancelled by his or her insurer. This is not fair. As well, we have been told of situations, and some of them have been made public in the newspapers over the last couple of years, and in the media generally, where a family member is prejudiced by the driving record of a fellow family member.

For example, the father of the household has a serious accident and the mother cannot get insurance with that company thereafter. That is not fair. Having heard the submissions of the taxi association, I tend to empathize with its concerns about taxi owners being penalized for the experience of their various drivers. In that case there is a lot greater number of drivers per vehicle than in a typical household, but the point holds true for both situations.

Another concern the APA has is that from statistics that we have been able to review, the accident rate in Ontario has been dropping. It has not been growing as the premium increases would tend to indicate, and a lot of that is thanks to the reduce impaired driving everywhere program and the lack of drunk-driving-related accidents in the province. One must wonder why the premiums keep going up when the accidents keep going down.

Granted the settlements on a per case basis may be greater, but in many of those cases the settlements could have been anticipated years earlier and the insurers are not justified in saying, "We are suddenly hit with this great court judgement. We now have to pay it." It takes an average of three years to get before a judge, and I am talking from experience in these automobile accident cases, so most of these tremendous judgements, which are quite rare and few and far between, should not come as a surprise.

As well, we have a problem with compulsory auto insurance. Although there is compulsory auto insurance in Ontario, many drivers have found ways to circumvent the system. By having a public-owned insurance system, the information resources of the Ministry of Transportation could be tapped by the insurance department, whereupon driver's licences could be cancelled immediately if the insured cancels the insurance policy. Private insurers have told me personally that it is too cumbersome to tap into the government's information banks to try to tie in cancellation of insurance and cancellation of policies.

Mr. Chairman: Could I interrupt you, Mr. Gray? I certainly would not want to curtail anything you have to say to us considering the time you have

waited to say it. You decided not to read your brief, but I find you are just getting--

Mr. Gray: Quite.

Mr. Chairman: Perhaps in the interests of time, if you do not mind--

Mr. Gray: I apologize.

Mr. Chairman: I do not want to shorten your time.

Mr. Farnan: I was really enjoying the presentation.

Mr. Chairman: I appreciate that, but there are also people here, besides us as members, who are perhaps being kept here longer than usual. I can hear stomachs groaning.

Mr. Swart: If you are restricting him because of time and not because of content, then I will not object, but if it--

Mr. Chairman: No. You can be sure it is not because of content. I am simply indicating to the committee that he is not reading his brief, and it appears as though he is going beyond the brief.

Mr. Gray: I will summarize by saying that the APA, on behalf of its members, feels, first, that public auto insurance is the most efficient way to run insurance if we can use the western examples and, second, no-fault insurance may be the best way to get adequate compensation for the greatest number of people in the most efficient time span and in the shortest time span possible.

Any questions you may have I would be pleased to answer.

Mr. Swart: Yes. I just have two. I compliment you on an excellent brief.

Mr. Gray: Thank you.

Mr. Swart: And of course it is factual as well, which makes it much more attractive to us.

My first question: You mention you represent 17,000 people. Is it accurate to describe them as 17,000 motorists or motor vehicle owners?

Mr. Gray: Yes, that would be an accurate interpretation.

Mr. Swart: Would it probably be true to say that you are the largest organization of its kind representing motorists?

Mr. Gray: Yes, I think the APA is the only association that represents consumer motorists exclusively. We do not handle broken refrigerators or broken dishwashers. Our concerns are car owners or prospective car owners. That is correct.

Mr. Swart: The only other question I have refers to no-fault. We are not going into that to any extent at this time, but as you referred to it, I would like to ask you a question on it. You are obviously familiar with the Manitoba system. I have a letter here from the Manitoba system finding out

what their total legal costs are. For the last two years their total legal costs run less than \$1.5 million out of premiums of \$230 million.

I will say immediately that the one in BC has much higher proportional costs, but if you could implement the kind of system they have in Manitoba and have those extremely low costs, something like one third of one per cent, do you not think it might be advantageous to keep that kind of a system and keep the right of people for legal action, if in fact they are so satisfied with the settlements that they do not take it?

If at some time it became a large part of the cost of the system, then you might have to take another look at it, but I just want to hear your views on that.

Mr. Gray: We go off into a topic which may take time to address. There are many issues. Number one is the cost of settlement, and the cost of settlement, including legal costs, as you suggest, is cheaper for a no-fault system.

Suffice it to say that individuals should have a right to sue if they feel that compensation is not adequate. In that case, solicitors may be retained for the purpose of independent legal advice only in so far as the settlement being offered, but not be retained to represent consumers in court. That in itself would drastically reduce the cost of settlement, as a component thereof.

Again, I sense from the chairman's comments that we do not want to go too far into the no-fault situation. Suffice it to say that the APA supports that system if it is properly designed.

Mr. Swart: That is an interesting point. Thank you.

Mr. Sola: I would just like to make a comment. I thought our mandate was to look at Bill 2 and see whether we can improve upon it and check its contents. We have here a submission that does not even mention the bill. I do not think this is an ideological forum. The ideological forum was in the election, and I hate to say this but I think both opposition parties are making this an ideological argument.

Mr. Chairman: Mr. Sola, I do not want to interrupt you, but traditionally down through the years in this place, it has become just the opposite. People are entitled to express their views and play out their cards, as it were.

Mr. Cureatz: Their fantasies.

Mr. Chairman: Yes.

Mr. Swart: It is much more than that. I want to get in on that point, because it is an important point that you make.

We have a bill before us, Mr. Chairman, as you well know. We have three options on that bill. We can report that bill, we can report that bill amended or we can report not to report the bill, which means that we are not in favour of the idea.

To restrict people, or even members of this committee, from talking about alternatives which could influence our decision on whether we wanted to

have a rate review board in principle is contrary, I suggest, to the rules of order of the Legislature, which say we have those three options. So in fact we must listen to arguments whether the bill should be reported or should not be reported.

Mr. Sola: Right, and it is not even mentioned in this brief.

Mr. Chairman: I agree basically in that respect, Mr. Swart, that the magnitude to which questions and issues can be addressed is significant.

Mr. Sola: I can agree with hearing anything, but relating back to the original content, this brief does not relate one iota to Bill 2. I do not see the connection.

Mr. Chairman: I am sorry, perhaps I have not been clear, Mr. Sola, but the tradition, and certainly the instructions to chairmen in terms of the tradition here, is that the witnesses come before us, the questioning can be of a rather broad nature and may not necessarily refer specifically to the bill itself.

Mr. Sola: I disagree with that.

Mr. Chairman: Well, that is the process.

Mr. Cureatz: Are we close to adjourning?

Mr. Chairman: I believe Mr. Nixon has a couple of comments, which I trust will be closing comments.

Mr. J. B. Nixon: Yes.

Mr. Cureatz: Before he does, I want to make a comment, since we are all making comments.

Mr. Chairman: Sure.

Mr. Cureatz: Far be it for me to come to the defence of my Liberal private member friend. Albeit, let me say that I am a little disappointed when witnesses come forward and categorically support a particular political party and individual in their brief. I think a more civil approach of presenting us with the facts as they see them and letting us conclude and evaluate the presentation would have made me feel a touch more comfortable.

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Mr. Chairman: In fairness to the witness, it is probably not the first time that has happened, from any one of the three parties. So your castigation should not fall directly just on this gentleman. It is noted, however.

Mr. J. B. Nixon: I would like to make my comment too and remind the committee that this bill has had approval in principle from the Legislature, which is something we would not want to forget. So we are dealing with this piece of legislation. None the less, I have a couple of questions for you.

In your brief, which is on a different issue from the one before the committee, first of all, you suggested that given the fact that the frequency of accidents in Ontario is going down, it is contradictory in your mind that premiums are going up. Is that fair?

Mr. Gray: That is right unless statistics can show that the settlement of each of these lesser number of claims in aggregate has been higher.

Mr. J. B. Nixon: How familiar are you with the western systems?

Mr. Gray: Quite familiar with the way the claims are handled.

Mr. J. B. Nixon: Are you familiar with what the presidents of the Insurance Corp. of British Columbia and the Manitoba Autopac said when they announced their 22 and 25 per cent rate increases, in the one-sentence explanation they gave?

Mr. Gray: Offhand, no, I am not.

Mr. J. B. Nixon: I will help you out there. The one-sentence explanation they gave is, "The cost of the claims is driving the cost of the premiums." I will just leave that thought with you.

Second, your brief refers to average rates in the various provinces, and you cite an average rate for a 21-year-old male in the public insurance provinces of \$512.

Mr. Gray: That is correct.

Mr. J. B. Nixon: I take it you are averaging Saskatchewan, Manitoba and British Columbia.

Mr. Gray: That is correct.

Mr. J. B. Nixon: On the basis of what information did you do that?

Mr. Gray: This is based primarily on the report we received from Mr. Swart. He researched this quite carefully.

Mr. J. B. Nixon: Oh, so these are Mr. Swart's statistics. I see.

Mr. Swart: Right on then.

Mr. J. B. Nixon: You are using Mr. Swart's statistics. Is that clear?

Mr. Gray: To a certain extent, as they can be justified, yes.

Mr. J. B. Nixon: OK. Let me ask you this: The insurance brokers of Ontario are brothers or comrades, or whatever, of the insurance brokers of Manitoba, British Columbia and Saskatchewan. I am sure when they come forward as agents, they are probably just reporting what they hear in the marketplace, or would you not agree with me on that?

Mr. Swart: Mr. Chairman, I think there is a way to clarify this as matters proceed. We want to get at the true figures, if all are now available. The annual reports of the three western public insurance provinces are out--

Mr. J. B. Nixon: Let me finish.

Mr. Swart: I am going to suggest we get these figures. That is what I am leading up to, that our secretary write and get these. We have from the Insurance Bureau of Canada its update which gives the premiums in Ontario. You

can find the average rate by dividing the total number of motor vehicles into the total premiums paid.

It is a very simple process. Don't let me do it. That was one of the ways it was done before. Let us have our secretary get all these and have our staff do it, and we can have then a figure here on average rates comparing Ontario and the three western provinces. Would that not be great? No arguments. We would have that from staff.

Mr. Chairman: I think that is very helpful information, but I think as well Mr. Nixon wanted to ask a question of this gentleman.

Mr. J. B. Nixon: I will just comment on Mr. Swart's comment. The problem is the public insurance corporations will not give you that information.

None the less, I would like to pursue my line of questioning with you, Mr. Gray. Do you accept the fact that generally an insurance broker is going to give you the right information or the wrong information about what insurance is available in the marketplace?

Mr. Gray: I suspect a broker would disclose the best information he has, certainly.

Mr. J. B. Nixon: You tell me the prices are lower in the public system. I am going to tell you that the insurance brokers tell you that the prices are higher and I ask you to respond to this. They say that in Vancouver the average rate for a 25-year-old claims-free driver driving an 1987 Chevrolet Celebrity is \$790, in Winnipeg it is \$787 and in Toronto it is \$682. How do you deal with that?

Mr. Gray: All I can say is that, in that class of driver, experience may have dictated that in the western cities you have referred to those drivers may have a lesser accident situation than they do here in Toronto.

Mr. J. B. Nixon: Well, no, if they have a lesser accident situation--

Mr. Gray: I am sorry, pardon me, higher. Out west they may well have a higher rate in that class.

Mr. J. B. Nixon: So perhaps rates should be related to the accident frequency or the cost of claims?

Mr. Gray: We are fully in favour of a nondiscriminatory rating system.

Mr. J. B. Nixon: You approve of that correlation between accident claims and premiums?

Mr. Gray: Absolutely.

Mr. J. B. Nixon: So the accident claims may be higher in Manitoba and that is why the premiums are higher.

Mr. Gray: Are you saying on average, or per a given class?

Mr. J. B. Nixon: Well, you chose your class. I will choose my class.

Mr. Gray: OK. I am saying if your class of a 25-year-old male driver

driving a 1987 Chevrolet Celebrity pays a premium of the dollars you just told me in those three cities, I have no statistics to dispute that.

Mr. J. B. Nixon: I am not asking you to dispute it, but you recognize it is \$100 or \$150 higher than it is in Toronto.

Mr. Gray: Yes, that is what I have heard it is. That is correct. I cannot dispute that.

Mr. J. B. Nixon: It is a large class of people, too, is it not? Everyone over 25 years of age with six years claims-free.

Mr. Gray: It could very well be one of the larger classes, but you are not saying whether that person is married or unmarried. If he is unmarried, it is a small class. If he is married, it is a larger class.

Mr. J. B. Nixon: The public systems do not discriminate on the basis of marriage, do they?

Mr. Swart: No.

Mr. Gray: (Inaudible) don't.

Mr. J. B. Nixon: And are you aware that the insurance companies do not discriminate on the basis of marital status, once you are over 25?

Mr. Gray: I am not aware of that, to be honest with you, no.

Mr. J. B. Nixon: I will leave that. Thank you.

Mr. Chairman: We thank you very much for your indulgence in waiting as long as you did. We appreciate your brief. I just want to canvass with the committee--

Mr. Swart: On a point of order, Mr. Chairman: The public insurance annual reports are available with all details from all the western provinces. I have them all. Mr. Nixon says they are not available, but that information is fully available, certified by the provincial accountants.

Mr. Chairman: Thank you. I think you have made your point. I think we could go on like this. I am advised that research will provide us with the information you request, or will attempt to.

The final issue I would like to address is the question of when we come back. In fairness to the people who are not as involved as we are, I think perhaps we should adjourn till 3 p.m. We have ministry continuing this afternoon, and I think three o'clock would probably give us some--would that give us enough time, do you think?

Ms. Parrish: We are at your entire disposal.

Mr. Chairman: But is it about an hour or an hour and a half more that you need?

Ms. Parrish: I would say an hour is more than enough for the ministry for the classification, but I do not know how long for questions.

Mr. Chairman: We will add an hour for questions. Is three o'clock agreeable to all members?

Mr. Swart: The questions may take more than an hour. It might be advisable to make it 2:30.

Mr. Chairman: Is 2:30 all right with you? I am more concerned about the staff, quite frankly.

Ms. Parrish: It is fine. We are public servants. We will bring that to our--

Mr. Chairman: How about we compromise on 2:45 p.m.? Agreed.

Mr. Swart: Mr. Chairman, there was one other matter I wanted to bring up in regard to a general agreement. There is some feeling that we should be getting these meetings going more promptly.

Mr. Chairman: Yes, I was just going to raise that.

Mr. Swart: We have representatives here. It is not a total requirement to have them here, but I think there is some consensus here that we want the meetings to start exactly on time, even if one political party is not here.

Mr. Chairman: Mr. Swart, it has been agreed. The clerk spoke to the members of the third party. I presume the same thing exists for the official opposition as well as the government. If members are not here, but we have a quorum, we can proceed. Thank you very much. We will adjourn until 2:45 p.m.

The committee adjourned at 1:10 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ONTARIO AUTOMOBILE INSURANCE BOARD ACT

TUESDAY, JANUARY 12, 1988

Afternoon Sitting



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Clerk: Mellor, Lynn

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Financial Institutions:

Davies, Bryan, Deputy Minister

Nixon, J. Bradford, Parliamentary Assistant to the Minister of Financial
Institutions (York Mills L)

Parrish, Colleen, Director, Policy and Planning Branch

Weir, John P., Superintendent of Insurance

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, January 12, 1988

The committee resumed at 2:53 p.m. in room 151.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT
(continued)

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

Mr. Chairman: I recognize a quorum. We will proceed with the presentation by the ministry.

Mr. Davies: We are picking up essentially where we left off yesterday. That was with respect to turning to the draft of the discussion paper on the classification system. Members of the committee may recall that the minister in his remarks yesterday indicated he wished to give members of this committee a first look at the proposed classification system in advance of the planned formal consultation process.

With that in mind, we had circulated yesterday for your review over the course of the last 24 hours the draft of the discussion paper. This discussion paper would accompany the actual detailed classification regulation itself which we hope to have ready for release in early February. It is contemplated that would then be in the public domain for comment and consultation until the end of March.

This discussion draft you have before you is not totally finalized and I would not be surprised if you find a typographical error or two in it which reflects that, but it does reflect fully the work we have pursued to date. As has been said, I know from this morning's discussions and yesterday that it reflects work that is in progress but is not by any means the finalized version even of the discussion draft that would go out. The thoughts and views expressed here could well be incorporated into a revised version of this draft.

With that introduction, I suggest it might be useful to have Colleen Parrish speak to this discussion draft and outline its contents.

Mr. Chairman: Just before that, I think Mr. Swart has a question.

Mr. Swart: I just wanted a question on the introduction. Given the date that is on here, is Mercer's report prepared basically on this draft? Although it is dated February 1988, would he have had it and prepared his report on that draft?

Mr. Davies: That is correct.

Mr. Swart: A bit unusual.

Mr. Davies: It is the outlines that count.

Mr. Swart: I understand.

Ms. Parrish: I hope I will not find myself electronically deficient today. They seem to have found some new system for wiring me for sound.

I would like to make a brief presentation on the classification system which is outlined in the draft you received yesterday which was developed for purposes of consultation. The draft really commences with an attempt to discuss what is "classification" and why classification is important to insurance.

What it is really trying to get at is the principle that classification systems attempt to identify those factors which may create a greater or lesser claim upon the total insurance pool. It is an effort, in essence, to take the 5.5 million drivers in Ontario and determine, based on factors, which groups of those drivers are more or less likely to create a demand on the entire insurance system in terms of payment of claims in relation to accidents.

The next slide will discuss in essence the principles behind the system we attempted to develop and they are outlined on page 2.

In essence, in developing the entire classification system in relation to the power created under Bill 2, we tried to find a system that would be reasonably flexible in response to differing situations of insurers, to recognize that there is a difference between a person who is driving a private vehicle and a person, for example, who is driving a commercial vehicle; to increase informed consumer choice by having a system which is mandatory and uniform, so that consumers can understand the choices available to them and in some cases moderate their behaviour accordingly; to be understandable to consumers, insurance brokers and insurance companies, so that the system can be administered, so that consumers can understand what they are buying and so that brokers are in a better position to shop the market and so on.

The system should not create artificial distinctions--yesterday I had trouble with sound; today I seem to have trouble with light--between groups of insureds in the sense that we would not want to have a system which created a distinction, for example, that was based on blue eyes and green eyes. That would not be a distinction that would seem to pertain to driving. You would want a system that was consistent in the sense that you would want more or less the same rules applied wherever appropriate. You would want a system that would be capable of implementation without unnecessary dislocation. I think the emphasis there is on "unnecessary." Obviously, dislocation is necessary in order to accomplish appropriate goals, but there was also a sense that some things have worked well and can continue. Other things have not worked as well and probably should not be continued.

In addition, the last thing within the total system was looking at the risks that are independent of each other. The reason you want to do that is that you want to be sure what you are measuring so that you can really tell there is a connection between certain things and the likelihood of having an accident.

We looked at each individual risk factor and asked the series of questions you find on page 3. We took every single risk factor there might possibly be in a classification system, from the colour of your car to any possible variations of risk factors, and we asked these questions:

Is it socially acceptable? For example, does it incorporate unacceptable discrimination on the basis of age or sex on some other basis such as socioeconomic status or whatever? Is the risk factor clear? You would want to

have a situation where people would understand what they are. They would understand that they are X and not Y. So there should not be an ambiguity which leads people not to know what they are entitled to or whatever.

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Is there a plausible relationship between the factor and the likelihood of future claims? You would want to pick a factor that does measure the likelihood of having an accident. This is an attempt to be as predictive as possible. If you knew exactly who was going to have an accident, you would not have to have insurance. I think there are certain factors that are obviously more predictive. For example, if you have a lot of impaired driving convictions, I think it is predictable that eventually you will have an accident.

The next thing we asked when we looked at risk factors was, is the risk factor practical in that it is it administratively feasible to use? For example, there are certain risk factors that are very predictive but are not very practical. A good example of that is night-time driving. There is quite a bit of evidence that if you drive a lot at night, you are more likely to have an accident, but it is almost impossible to measure the degree to which you drive at night. You would have to have people lying in wait, waiting to see when you came home at night. Although driving at night is very predictive, it is not very practical to introduce that as a factor within the system.

The next question we asked was, are the people assigned to the risk factor groups reasonably homogeneous? You would want to have groups in which people had very similar characteristics. Otherwise, the premium would be unfairly distributed within the group.

Probably the best example of that situation would be, suppose you said, "All cars that are more than 20 years old we are going to put in one group together." Then you would have one group that had old Rolls-Royces and old Volkswagens in it. If you had that kind of group, you would lack homogeneity. Of course what would happen is that, for the same price, everyone would want to insure the Volkswagen and not the Rolls-Royce. It would be unfair to the Volkswagen owner because he would probably have to pay more in order to subsidize the added cost of the Rolls Royce owner being in that particular group.

The next one is, does the risk factor create an incentive for certain desirable driving behaviours? For instance, if people know they can reduce their insurance by driving and not incurring speeding tickets, that they can reduce their insurance by commuting as opposed to driving or whatever, perhaps they can modify their behaviour if it is appropriate for their circumstances. Certainly, reducing impaired driving is another example.

The last question we asked was, does the risk factor have the potential to be artificially manipulated in such a way that you do not really know what you are measuring? One of the factors we looked at, which we did not adopt, that could be artificially manipulative is psychological profile issues. There have been some studies that have looked at psychological profiles and have attempted to identify people who are inherently risk-prone and people who are inherently risk-adverse. A system like that is probably very subject to manipulation and is probably not appropriate.

This was the process we went through when we looked at all the possible risk factors and tried to choose those that are appropriate.

In order to understand the classification system, I think it is important to know that the classification system classifies risks into certain categories and into certain risk classes based on seven coverages, which are the seven coverages found in your standard policy, either your owner's policy or your driver's policy in Ontario.

The seven coverages are listed on page 22 of your document. I think they are ones you are probably all very familiar with such as third-party liability and accident benefits. Then there are the property damage coverages such as collision, comprehensive, specified perils and all perils, and then last, family protection endorsement, which is often referred to as SEF 44. That system is more or less benchmarked against these seven coverages.

I will skip over pages 4 and 5 in the paper, which are really attempt to give a very brief thumbnail sketch of Bill 2 which you are already familiar with, but when we were developing this paper we realized that people might not be aware of it.

In terms of developing the overall classification system, wherever possible we tried to develop uniform standard provisions, wherever it was feasible. We felt that this would increase the ability of consumers to understand the system and that it was desirable, unless there was some overwhelming reason to do it differently, to use more or less the same provisions.

For instance, in the classification system we are developing for discussion, the limits of third-party liability exposures are all uniform. We use the same. We start at \$200,000 which is the minimum statutorily required limit in Ontario and we move up by increments to \$1 million. Similarly, in the deductible area we use the same standard deductible, so that everywhere you see the word "deductible" or the word "limit" it is the same throughout the entire system. We do not have specialized deductibles for taxis and specialized deductibles for red cars; we have the same throughout the entire system. In addition, where we use the word "territory" we use the same standard territory throughout.

We have attempted to introduce standardized features which make the system easier to understand and also assist in the collection of appropriate statistical information, because if you have the same underlying features, for example, the same territory divisions, you can more easily measure the experience of various groups across the system and determine who is making a larger claim upon the total system. Wherever possible, we have attempted to do that.

In terms of the overall risk factors, other than the standard features I have just discussed, all of the other risk factors fall into three categories. One is type of use of the vehicle. How is it used? Is it used for commuting? Is it used as a taxi? Is it used as a pickup pizza delivery service? The next groups of factors are vehicle characteristic factors. Is it a truck? Is it a Cadillac? Is it a Volkswagen? What kind of vehicle is it? The last group is the driver characteristics issue. Is the driver an experienced driver? Is the driver a person who has had a lot of convictions and so on?

Although there are many risk factors, they all fall into these basically three categories: use, vehicle characteristics or driver characteristics.

Although there are lots of pages in here, conceptually it is just these three things in addition to the standard features.

The classification system is divided into three main categories with some subcategories. The first category, which we show on page 6, is the personal vehicles and it is subdivided again into private passenger vehicles, motorcycles and then some miscellaneous groups. Second, there is the large category of commercial vehicles, subdivided into commercial vehicles excluding interurban vehicles and interurban vehicles. Interurban vehicles are essentially long-transport trucks, trucks that travel large distances to deliver goods. The last group is the public vehicles, which includes the taxis and limousines, buses, ambulances, hearses and the long-distance bus category, which is sort of the public vehicle equivalent of the interurban truck category in commercial vehicles.

These particular categories are, in very large terms, more or less the status quo in the sense that most classification systems now look at personal vehicles, taking the position that personal-use vehicles are substantially different from these other commercial vehicles.

I think it would be most useful at this time if we turn to the chart which you all have in your package and which I believe commences on--

Mr. Keyes: Page 26.

Ms. Parrish: --thank you, Mr. Keyes--page 26. This chart is an attempt to take all of the risk-class factors that are within the system and to put them within these columns that attempt to explain the various aspects of the system. As I said before, the classes of risk exposure are set against each category or subcategory on a coverage-by-coverage basis.

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In the paper, we had looked at the private passenger vehicles as sort of a little sample example. I will try to explain how the chart works, because we feel that is probably an area that most consumers will be particularly interested in. I will just take you through it very briefly to give you some sense of how the chart works, although I am sure you have all had a chance to review it briefly for yourselves.

In the case of third-party liability coverage, for instance, we use the standard territory which is used throughout the system. We then look at use, and we have four uses: pleasure use, farm use, short-commute use and a long-commute and/or business use. Then we also have a mileage-band system, which is set out. I should say, as in many of these cases, there is nothing magic about some of these numbers. It is really an attempt to categorize drivers into low-mileage drivers, moderate-mileage drivers and high-mileage drivers in the belief that those people who have very low mileage are less likely to have accidents simply because they are not on the roads as often, exposing their vehicle to accidents.

The next category is a years-licensed category which attempts to look at the driving experience of the principal and secondary drivers and is a somewhat different modified system. I should note that in terms of driving experience, the driving experience is simply based on the period of time in which a person has had a licence. If a person has a period of time in which he is not licensed--for example, a person perhaps allows his licence to lapse for a period of a year because he was ill or out of the country--we do not start

him at zero; we simply do not count the one year that he did not have his licence.

The next category attempts to look at the issue of claims and convictions. As the parliamentary assistant indicated earlier, this is what I would call a hybrid system of bonus-malus. It is not a pure sense of bonus-malus because the other factors are still within the system. A pure bonus-malus system would measure only accidents and convictions and would look at nothing else, as the parliamentary assistant said this morning. This is a form of bonus-malus, and what essentially occurs is this: a new driver comes into the system as a zero, in the sense that it is assumed that this driver has not achieved three years of claims-free driving, but it is also assumed that this person is a conviction-free or accident-free driver. So they come in at zero; we do not assume that they are good drivers and we do not assume they are a bad driver; they come in at zero.

If they achieve three years of conviction-free and accident-free driving, they are then a three-year claims-free driver, and then if they achieve five years, they are a five-year claims-free driver, which is the highest class of driver in our system. If they have convictions and accidents, then they work their way down the other side of the scale. So this is a modified form of bonus-malus but it is not a pure form because the other risk factors are still within the system.

Vehicle characteristics and deductibles are not factors for third-party liability because it is essentially a coverage to deal with personal injury or damage to somebody else's vehicle. However, there is a policy limit area, which we have discussed; that is, the limit of the policy: you have a policy that covers you for \$500,000 or you have a policy that covers you for \$1 million.

The additional factor which we have maintained is the abstainers reduction which is in fairly widespread use in Ontario.

I will jump down to the collision coverage to pick up the vehicle characteristics area, which I do not pick up with third-party coverage. In passenger vehicles, the property damage coverages are rated by rate group tables and what rate group tables really are is sort of a system of allocating numbers to vehicles based on the model, the type of vehicle it is, the age of the vehicle, the vehicle type, is it a sedan or a station wagon or whatever, and an attempt to find within the system those vehicles that are more expensive to repair, more expensive to replace and so on. If there is no rate group relative to the vehicle, then a simple price depreciation system is used.

This is an example of how the chart works and it simply goes on to use all of the categories and to allocate all of the coverages and risk factors between them. I would be pleased to respond to any questions that the committee may have or to elaborate on anything that the committee feels would be useful in light of the material that we have given you.

Mr. Keyes: I do not see anywhere that you may have considered trying to get into a family rate or whether it is possible to explore that. I do not want to use the one and only exception, but I am thinking of rural Ontario, where you will often find that a truck is basically used for farm functioning but also is the family car and is certainly used for pleasure because the family do get out at times to run about. It may be used by the wife, who may work, she may be a schoolteacher, she commutes short distances to work, etc. Then you get occasions where secondary drivers or children in the family may

be numerous, young men, young women, who have different driving records, etc., and there becomes such a phenomenal host of other factors involved that I really wonder about the problems of both the family in obtaining the insurance and the agent in fulfilling it.

There are two parts. One, have you ever looked at some attempt at a family type of rate? The second one is the whole problem of how we are going to determine, in very frank terms, the honesty of the application form. It has been suggested that if you are going to really provide for that then you really need the application form--the form signed by the individuals getting the insurance--to be very much a part of the policy, rather than separate and apart from it. Then it is there and if they have perjured themselves with what they have put in as part of their information, the time will come when that may show up.

Those are two issues, but particularly with the first one, I see great difficulty for agents and families when they go in for insurance to understand what the rate is going to work out at. Have you worked out a few samples as an example, taking the scenario I have given you, with three or four children in the family and the wife is out working, etc., and the vehicle is there and it serves all these other uses?

Ms. Parrish: We have looked at the issue of what you do if you have a multiple-use vehicle. We have essentially said that where you have a multiple-use vehicle, you assign the vehicle to the class for which the proportion of use is the highest. The classic case is the situation of the person who is, say, an artisan or a plumber and he uses the vehicle to do a little plumbing on the weekend or whatever and then he also goes to Loblaws. In that case, you assign the vehicle to the place where the proportion of use is the highest.

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In the case of farm vehicles, perhaps it would be useful to clarify that a farm vehicle can be used as a pleasure-use vehicle; if you use your vehicle on the farm to do your farm things and also use it for family outings and so on, that is fine. That is within the farm use. If it is used as a commute use, then it is a commute use. If it is used to commute to work, the risk is that the vehicle is used to commute.

Mr. Keyes: They are both there, in those examples.

Ms. Parrish: Yes.

Mr. Keyes: Mileage for pleasure might exceed that of commuting. I can think of a specific example where a person may use it to go five miles to work and back and works as a teacher 200 days of the year. His commuting distance is not all that great, but it is essential that he use it. He may very well do a family trip that puts at least 5,000 miles a year on the pleasure side. The majority of the mileage comes under the pleasure side. Hours of use might have been just as much on the pleasure side, and yet it was a five-day-a-week use for commuting. That is where I find this great problem in agents and families in being honest and realistic as to how they determine where they fit in.

Ms. Parrish: If you use your vehicle for commuting, then it is classified as a commuter vehicle. It is almost like a pyramid. But those are all good points and I think these are all points we are going to hear about when we go for consultation.

Part of the reason we introduced two forms of use, pleasure or commute or whatever, and then added mileage, was the attempt to do what you have suggested: to determine both use and the total mileage on the car and to try and play with those together and see what the overall fair use of the vehicle is. But there will always be circumstances of human judgement and I guess what we are trying to do is to see what most people in Ontario think is the most fair way of doing this.

Mr. Weir: I think you will find it is not that different from the current situation. Currently, underwriting and rating is multidimensional and layered. The brokers are quite familiar with this type of structure and, hopefully, through a public information program, we will be able to show the public and consumers how the rating works. Also, the specification sheet which will give policyholders the quote will break down how the premium is comprised. That is another aspect that is anticipated. We anticipate that brokers and the public should not have that much difficulty, once an educational program is put into place and the system is up and running.

Mr. Keyes: I hate to suggest that every person in Ontario is not 100 per cent honest, but brokers have expressed the problem they find when people come in and talk to them. They try to determine which it is and quite often if there is error, the broker is going to err on behalf of the applicant. Any comment or suggestion on that?

Mr. Weir: On that point, the application form used by all insurers has to be preapproved by the office of the superintendent. It will be a standardized form, so there will not be questions. The form will be designed, hopefully, to be intelligible and in plain language so people will know the question being asked of them. If they choose not to provide accurate information, there are penalties. If they are made aware of the potential penalties if they do not provide accurate information, that should guide their conscience in how they are going to act.

Mr. Kanter: I think you have set out the underlying principles quite clearly. I am looking at page 3, dealing with the criteria. In your mind, are there some criteria that deserve more weight than others? Do you consider them all equal or do you feel that certain criteria, like the relationship between the risk factor and the likelihood of future claims, or the risk factor creating incentive for certain desirable behaviour, might be more important and have a higher priority than other risk factors?

Ms. Parrish: I think we listed the questions almost in order of what we thought was their relative weight. I think that predictability is important, but predictability, in the absence of the ability to administer practically, is not worth while. Similarly, you could have something that is predictive and practical but is not socially acceptable.

I think they are intertwined. I have to say that in some cases we were willing for some overwhelming reason to make some sacrifices in an area. You cannot have a perfect system. Indeed, we found, throughout the attempt to find a good system to put forward for discussion, we were constantly battling between having a system which was too complex and had too many things in it and having a system which was too simplistic and, therefore, would be very rigid and inflexible.

So we were constantly wanting to add things to create more choice and more flexibility. When we did that, we would then realize that we were going to create a more complex system which would be more difficult to understand or

to administer. So there was a constant balancing; indeed, we say in the paper that we really feel the consultation is necessary to strike a balance at the optimum place.

Mr. Kanter: Let me go back and ask a question with respect to your first criterion, which in terms of parity would be a pretty important one. It deals with the social acceptability.

Let me reverse that and ask what, in your view, makes a risk factor socially unacceptable? I guess what I am getting at is the concern of the Consumers' Association of Canada, which suggested that the number of years of driving experience was often something that a person could not control. A young driver or a new driver cannot, by definition, have a lot of driving experience. Was there any consideration as to whether or not number of years of driving experience was a socially acceptable risk factor?

Ms. Parrish: I believe Mr. Nixon wants to speak to that issue.

Mr. J. B. Nixon: There are a number of reasons why any variable is selected or rejected. The overriding concern is to develop good public policy. It was felt, clearly, that discrimination on the basis of age, sex and marital status was contrary to good public policy. The only reason it is allowed in Ontario for insurance purposes is that when the Human Rights Code was passed it specifically exempted insurance companies engaged in underwriting practices from the application of the Human Rights Code when they discriminated on the basis of age, sex and marital status.

You may remember Professor Zemans from Osgoode and the Bates versus Zurich ruling about a year ago. Professor Zemans made the decision that, as far as he was concerned, it was discriminatory and unacceptable from a human rights point of view to discriminate on the basis of age, sex and marital status. Notwithstanding the exemption in the Human Rights Code, this government agrees and it made the decision to eliminate the use of those variables. I think it is much more difficult to develop an argument that the number of years you have spent driving or the number of demerit points you have attached to your driving record are socially unacceptable rating criteria.

Mr. Kanter: I agree with you. If I can have one last comment, I agree that you cannot do much about age and sex; perhaps you can with marital status. I guess I am looking at the reason why these should be considered discriminatory. I would also agree that there is a kind of flow here. It is not an either/or situation. As for the number of years spent driving, it seems that an 18-year-old driver has limited control over that particular criterion, whereas he has much more control over whether or not he has an accident where he is at fault, or a violation of the Highway Traffic Act or the Criminal Code.

It just seems to me that the same rationale that would lead to the elimination of discrimination on the basis of age or sex might be applied to the situation of the number of years of driving experience.

1530

Mr. J. B. Nixon: With respect, I think you are posing the wrong question. You are suggesting that because an individual has no control over a certain factor in his life, he should not be discriminated against in terms of insurance writing. I just cannot see that it makes sense. There may be many things that any individual cannot control in his life, but that does not suggest that he should not be distinguished from others simply because he

cannot control that factor--in terms of developing a public policy, in any event. Perhaps Colleen has a comment.

Ms. Parrish: We did look at the issue of age and years of driving experience and whether years of driving experience was a proxy for age. Obviously, to some degree it is in the sense that you will not have very many 17-year-olds in the 35-year-plus driving category.

The reason we felt it was at least worth discussing, as opposed to being something that was inherently offensive, was that one of the problems with age is that age is independent of any other factor. You have a circumstance where if you learn to drive at the age of 16 and drive for nine years without an accident, under the current system you are still treated as a bad driver in essence. If you do not get your licence until you are 26 years of age, you are automatically treated as a good driver.

At least with the issue of years of driving experience it is equally applied. Everybody has to start off at zero and work his way up to 35-plus years. Whereas with age, depending on when you get your licence, the difference can be very substantial and is entirely without experience.

Also, within our system, although we do have a three-year period, you can at the end of three years become a three-year, claims-free or event-free driver. Then you will become recognized in the system immediately. You do not have to wait nine years. So that is, I think, a distinction in the system.

The other thing is that we do currently have a system that recognizes probationary drivers in the province in an effort to inculcate good driving habits during the early years of driving in the hope that this will carry people through their entire driving experience.

We did look at it and those were the arguments pro and con. As I said, we felt, as with many of the factors we are putting forward, that it was worth discussing in the public forum and seeing how people responded to the use of this as a risk factor.

Mr. Runciman: I am just wondering about the mechanics of this thing and how it would work with respect to the categories in the classification system. You talked about the possible range yesterday of \$200 to \$240. How would this work with respect to those ranges? Would you be talking about the higher-risk groups being at the top of that range automatically? How would they fit into that?

Ms. Parrish: Forgive me for giving you a very technical answer, but rate-making is usually done this way. It starts out with a base rate, which is usually based on territory. What they would probably do is look at the territories and create a base rate for those territories. They then would look at the various other factor: use, driving experience and so on. They might very well say, "For territory 11, the base rate is X to Y."

Then they would probably have a system that says in essence: "If you are a pleasure-use-only driver, your rate is 10 per cent below the base rate. If you are a long-commute driver, your rate is 30 per cent above the base rate." They would probably give rate ranges there too. They would say, "Your rate, if you are a pleasure-use-only driver, would be between five per cent and 10 per cent less than your base rate."

Usually, rates are done on a multiplication factor basis, but the board has complete discretion as to how it might do it. I am just saying that this

is typically how rate-making is done; it starts with the base rate and works the factors up.

One of the points that has been made by a number of observers is, in the conviction surcharge area, the bonus-malus area, that it might be more fair to simply have dollar-added figure rather than multiplication because, in essence, multiplication sort of says, "If you have an accident in Toronto it is worth more simply because your base rate is higher because you are in Toronto." Many people say that if you are going to nick someone for having had an accident it is better to simply say, "Here, it's worth \$200," than to say, "Here, it's worth 10 per cent or 20 per cent."

But, in general, the way it would work is to start with the base rate; you would multiply up and down, and in some cases you would probably simply have additive factors rather than multiplicative factors.

That is how most rate-making processes are done. Indeed, that is how most rates are set now. That is how insurance companies structure their rates now. They start with a base rate and then calculate up and down based on these various factors and the relativities between the factors.

Mr. Runciman: Talking about the rate-setting authority, yesterday I think you used a range of \$200 to \$240, which we would say would be the base; you would have that kind of range in the base, X to Y.

Ms. Parrish: That was given as an example.

Mr. Runciman: OK. Let us run with that example. We are saying the base is \$200 to \$240, and you are saying if it is a pleasure-only driver or a noncommute driver you could drop down by five per cent to 10 per cent below the bottom end of that range or within that range?

Ms. Parrish: I am sorry. The parliamentary assistant seems to want to answer that.

Mr. J. B. Nixon: I just want to help clarify things. Because we are in the period of consultation, and these are in draft form, we are going to get a lot of speculation as to who is going to be hurt and the winners and losers.

One of the big problems all of us are going to face in our own ridings when people ask us, "Why are you forcing rates up for X group and not Y group?" is that all we are proposing here is a rate classification system, but the actual weights to be attached to the variables in the formula, if you follow me, have not been assigned. That work has yet to be done. That is part of the reason for the consultation.

I am just cautioning the committee that if we start choosing numbers like \$200 to \$240, down five or 10 per cent or up 30 per cent, people are going to be walking out of here and saying, "Commuters are going to have their rates increased 400 per cent" or something.

Mr. Runciman: I appreciate the concern you are expressing, but I do not want to get into specific numbers. I just want to use those as examples to help me understand it a little bit better. I am wondering how the process is going to work. We can forget about \$200 to \$240. I am just wondering how it is going to work. If you want to use X to Y, that is fine with me. But I am saying here is that you said the base is X to Y; then you talked about

pleasure-only and noncommute. I am wondering, is that is five to 10 per cent, or whatever, below the bottom end of that range?

Ms. Parrish: We do not know what the board is going to allocate. We do not know.

Mr. Runciman: Are they going to have that flexibility?

Ms. Parrish: They have that flexibility. They could say, for instance, "The base rate is X to Y." Then they could say, "Pleasure use is X per cent less than the base rate." They also have the flexibility of saying, "It is X dollars less than the base rate."

Mr. Runciman: That does not apply to the ceiling; if they go beyond the ceiling they would have to reapply to the board.

Ms. Parrish: No. They would say it is X to Y per cent below, so they would say the base rate is \$100 or whatever. It is the actual dollar amounts that are allocated against the boxes of the classification system as set by the rate board. They have total flexibility in terms of establishing the rate range for any aspects of the box, and they have total flexibility in terms of the methodology that they could choose. They can use a base rate and then they can multiply the base rate up and down. They can use a base rate and then they can use additive amounts. They have all the flexibility that they could want in terms of setting numbers, dollars, percentages, factors or whatever.

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The Vice-Chairman: The deputy has something to add to that.

Mr. Davies: I think it is important to appreciate that the rate board would be setting the rate or rate range not only for the base rate but for all of these other variables as well. There might have been some confusion that they were just merely setting the base rate and that companies then moved in and around that. That is not the nature of the rate review board proposal or of the classification system proposal. Rather, the concept is that they would not only set--if they chose to do it this way--a base rate, which is the most common way of working a rate board, but also set the variables and the weights to be assigned to the variables that get added or subtracted from the base to end up with a final premium. The end result is that there are many different numbers that the rate board has to approve.

Mr. Swart: I had to step out for a few minutes. I presume that after we deal with this document, you are then going to deal with the William M. Mercer Ltd. document. Am I correct in assuming that?

Ms. Parrish: Yes, sir. We will speak briefly to it and then I will--

Mr. Swart: There are a number of the questions which should come under that rather than under this report.

I just want to express some sympathy and support for Mr. Kanter's views. I think he does make a good point. There is no question that to a very substantial degree the fact that they are going to use acquired experience as a determinant factor--and, if we look at the Mercer report, a very large determinant factor in rates--to some extent nullifies the benefits that would otherwise go to a young driver.

There are some very valid arguments that a person should be innocent until proved guilty. Whether you go to the bonus-malus system, as they have in British Columbia and for which I have some sympathy, or whether you use a system such as they have in Manitoba and Saskatchewan, where everybody starts off with a clear record and pays basically the same rate, those are two points of view which I do not think can be excluded. I find some sympathy for both. I think there are sound arguments on both sides, as a matter of fact.

The driver who starts out perhaps should be on the bonus-malus system, whatever age that person is, and prove he is a good driver or, if he prove that he is a bad driver, then he will have his rates increased. On the other hand, it should not be assumed that a young driver, or perhaps anybody who starts driving, is somewhere in between a good and bad driver; perhaps he should be considered a good driver until it is proved otherwise.

I think that is something we need to take a look at, and of course that comes back to the issue of what purpose this committee has in this. If we are not going to make recommendations with regard to these, then what is the purpose of really discussing them at any great length?

You use the words "socially acceptable" a number of times. One has to wonder whether it is socially acceptable that a person should be penalized after the first event, especially if that person may have been a good driver over the years. I think most people would agree that it is possible to have an accident even if you are a good driver--a split-minute, wrong decision. I feel rather strongly that the first one over a period of time should be forgiven and should not be immediately taken into consideration in the setting of the rates.

I suppose another whole principle involved in this, and it was mentioned this morning, is the social impact or whether there should be a social impact on what we are doing. There is the whole question, when you come to the level of penalties, for instance, especially on the first one or two, where the law of this province says that is not unacceptable--you do not pay any great fine or anything of that nature--but then we come along to the insurance and say, "My goodness, you are going to pay a tremendous increase in your rates because you have lost six points," and whether the rates should not be increased substantially if that person is that much of a menace on the road. The penalties assigned by the law should not be increased. I think we have to balance that out to what is socially acceptable.

Also, a specific question I wanted to ask was on the matter of the teetotallers or nondrinkers. There is no special category recommended for those, although it is going to be permissive--but I presume that is permissive, is it, within the framework, if there is a range of rates, within that range of rates, or will there be a special category for those who are nondrinkers?

Ms. Parrish: There is a special class for abstainers. As to how the board will treat that, they could very well say, "If you are an abstainer, you may have a discount of X per cent or from X to Y per cent," or they may build it in within certain elements. But abstainers are a specific class that is recognized under this proposal.

Ms. Hart: Just as a matter of interest, you were talking about the base rates based on territory and you were going up or down, depending on various factors. I have some familiarity with the making of trucking rates, and I am wondering if it is the same in this kind of rate, that the base rate

really is not based on a detailed analysis of cost, for example, that it is really kind of a guess that the insurance companies come up with that they can live with.

Ms. Parrish: I cannot speak to what the insurance companies do now, but I think it is anticipated that the board would obtain all of the information that it needs to determine what the appropriate base rate would be, looking at all of the cost components. They certainly have the authority and power under Bill 2 to have some good indication of what the base rate should be within the whole system.

Ms. Hart: You were speaking of base rates used now by insurance companies. Presumably in the work that went into the drafting of the statute, someone at least looked at the base rates that are there now and would have some idea how they were arrived at.

Ms. Parrish: We do know how they are arrived at. Under the current system we have a market system in which each company has the ability to structure its own rates as it wishes. Many companies use statistical evidence obtained from various sources. Some of them use only the statistical evidence from their own company. Some of them combine that and obtain advice from independent advisory groups. That is how they currently structure their rates. Each company, under our current system, has the total ability to determine its rates on whatever basis it wishes. Under the new system they would have to be within the rates established by the board.

Ms. Hart: They could, in theory, pick the number out of the air.

Ms. Parrish: I cannot speak to how they currently chose their numbers.

Mr. Chairman: Are there any other questions from members of the committee?

Mr. Swart: I wonder if I could ask one more question. Did you in fact look in depth at the three western plans when you designed the classification system? Saskatchewan's has been there for 41 years, Manitoba's for about 17 and British Columbia's for 15, and they have refined their systems and apparently they are very satisfactory. We heard that this morning from the Consumers' Association of Canada, and the polls that have been taken show they are exceedingly satisfactory to the public. Did you use them as a base at all or information that you could get from them in order to develop your classification system?

Ms. Parrish: We looked at the classification systems across Canada, including the public auto plans in the west and la régie de l'assurance in Quebec and all of the classification systems used in other provinces where they have a private sector market. We also looked at classification systems, I believe, in six or seven American states and also at classifications used in three or four European jurisdictions.

It is difficult, because we are not always comparing apples and apples, but we did attempt to look at various components at a wide range and to get the best sense that we could get of what was there.

Mr. Chairman: Under the proposed classification, it does not seem to change something that I suppose, as the father of four boys, I always thought was a bit unfair, or, for that matter, driving your vehicle to work. If you

chose to indicate you did that or you chose to indicate that you had youthful male drivers in the family, then you paid an additional rate which was sometimes rather extraordinary. Yet there were people who did not indicate that. When it came time for a claim, as I recall, the insurance company paid the third-party liability claim but it could, if it chose to do so, refuse to cover the collision.

I do not see that this changes that in any way, shape or form. There will still be those two categories of people and one group will still be getting its third-party claim paid, as is the other group. But one group is paying more because it is playing it above board, I guess you could call it. Do you understand what I am getting at?

Ms. Parrish: This is perhaps similar to Mr. Keyes's question about what happens if people are dishonest. As you pointed out, if people are dishonest, it is possible to deny the damage to the vehicle itself, and since most people do not wish to find themselves without insurance for their valuable automobile, most people tell the truth. In fact, I think most people tell the truth anyway, because they understand that they are buying a product based on this information.

The question really is, can you structure a classification system based on the assumption that people are dishonest? I guess this is really based on the assumption that people are honest and that people do tell the truth. The consequences of not telling the truth are that you do run the risk of having your very valuable automobile without collision insurance.

Mr. Chairman: But let us say you choose not to add collision.

Ms. Parrish: If you do not care about your vehicle being smashed up. As I said, the system is based on the assumption that people are honest. There is also the issue as to how easy it is going to be to get insurance in the future. Who is going to insure you if you are known to be a person who lies on your application? But the system is based on the assumption that people are basically honest.

Mr. Chairman: I do not want to belabour the point. Let us say you choose not to have collision, so that does not become a carrot for indicating that you either drive to work or you have young drivers. Let us say that you drive to work and, to take the ultimate ridiculous situation, at the time of the accident you throw your brief case out the window. I mean, how do they know?

Ms. Parrish: I say I was just going to Loblaws at a quarter to eight.

Mr. Chairman: Yes, how do they know? I just think that is an issue that perhaps should be looked at, not because it is a matter of dishonesty. I think it is a matter, as Mr. Keyes says, that when the agent perhaps is selling you the policy, he may say, "Do you drive to work?" "Yes." "Is it very far?" "No." That is the answer. He never asks, nor do you tell him, how far it is and you then do not pay the same as the other person. If it is a matter of fairness, then it should be a matter of fairness for everybody.

Ms. Parrish: I think that comes back to the answer that the superintendent gave a little earlier about the application form. There are a number of questions that could be put on the application form that will pick that up. For example, you say, "Do you drive to work?" "Yes." "How far is it from your house to work?" If a person says he drives to work, and it is 25

miles, then the likelihood that that person is putting less than 6,500 kilometres a year on his car is fairly remote. You can ask for an odometer reading at the beginning and the end of the policy. Unless people are very clever and write down what they said before, they probably will not pick it up.

I think there are a number of questions that you can structure into the policy applications that will deal with these questions, but I think both you and Mr. Keyes are quite right, in the sense that you can never have a system which guarantees complete honesty.

Mr. Chairman: Finally, if I could, what happens even if you have an application form and the person is not totally straight up or underguesstimates? The net result is not like a life policy where it could be challenged in terms of collectability because you are covered for third-party liability. The only thing that you have lost is where you have collision coverage. If you do not have that, you have lost nothing.

Ms. Parrish: The company can sue you, of course. You are running that risk.

Mr. Chairman: Turn around and sue you for the--

Ms. Parrish: For misrepresenting, if they know.

Mr. Keyes: I am just trying to follow up a bit. Maybe my point was missed before. Is there not some merit in standard application forms which then form part of the policy? When you apply for life insurance, your application form, where you gave orally the stats to the individual, was taken down by the agent, but then you signed the application form and it becomes very much a part of your policy. In my many years of insurance, I have never signed an application form that I can recall for insurance. I gave the information to the agent. He gave you a price quote and you walked off with your insurance over the counter or whatever.

But if you then have the application form as a part of the policy, whatever you stated is there. I think there has been some tendency perhaps then to be sure it is more fully outlined if you have had to sign that application form. Then that provides protection for yourself. If you try to debate with the company as to whether or not you did tell it everything about what went on and on, it is there. I think it would resolve some of what I see as a problem.

Ms. Parrish: I think the superintendent would want it too.

Mr. Weir: We are contemplating, in the proposed legislation that forms the balance of the April 23 initiatives, to bring in that sort of standardized application form, which will form part of the policy. We have been calling it a spec sheet. It will follow the application form. When you get your policy, the specification sheet will reflect what is asked or what would be asked on an application form. One of the things that people have drawn to our attention is that if we compelled everyone to sign an application form every renewal period, it would be extremely difficult to administer from the brokerage and the company.

Mr. Keyes: Only if they ask to change the coverage.

Mr. Weir: Yes. We are contemplating the ideas that you are putting forward today.

Ms. Hart: Like Mr. Keyes, I have never signed an application form.

Mr. Chairman: I have never either.

Ms. Hart: I have certainly never seen it, if one was filled out; so that must be fairly common.

Mr. Weir: It is common for the broker to ask you if there is any change in circumstances. I think the public has in the past been sufficiently conditioned that if you bought a new vehicle or you moved or you changed the use of the vehicle, you contacted the broker and notified him. Yes, you are correct, and people will in the future know exactly how they were rated to ensure that that would coincide with what would be on an application form or what is on the application form.

Ms. Hart: I hear you say that there is going to be an application form that is part of the package, but I think the point we are trying to make is that it has to be signed; otherwise, the broker is still going to continue to fill it out.

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Mr. Weir: It will come back to the individual. In law, I suggest there is nothing to compel having a signature on the application form. It might be somewhat onerous to have it sent out to the individual and then have it come back. If it is delayed in the mails or whatever, then there would be a problem with the effective date of coverage and so on. It has been put forward to us that it might impede the efficiency of the renewal process, etc.

Ms. Hart: I can appreciate that, but the reason I am suggesting the signature is that, sure, in law that does not mean you have accepted everything, but it does mean you have looked at it because you signed the page.

Mr. Swart: Not only that, but you would have to sign a paper. People are much less likely to put something down which is incorrect. It is one thing to tell a broker, but it is another thing to sign a document. Even though it may not be binding law, we are likely to get accurate information.

Mr. Chairman: The practice in the real world, as Christine indicated, is that you call up the broker and you say, "I've bought a new car. You give him the particulars and he has power under the act, or maybe under the Insurance Act, to bind for two weeks or something. I do not think I can recall ever seeing an application. I am not sure.

In any event, I think we had better move on. I understand the deputy minister is going to introduce the distribution impact study in five minutes.

Mr. Davies: Even more briefly than that. I will just give Colleen Parrish a chance to have a glass of water and prepare for the next set of questions that I am sure will arise.

The documents that were circulated yesterday included two pieces of paper relating to the Mercer report. The first was a five-page document, just stapled in the corner, called Summary Report, and then also circulated was a more extensive document, which is the Mercer report itself. I point out that this is phase one of a study that is being prepared for the ministry by Mercer. They are also working on a second phase that would cover commercial vehicles and--I am not sure--public vehicles as well?

Ms. Parrish: Vehicles other than taxis.

Mr. Davies: Public vehicles other than taxis in addition.

The minister indicated in his opening remarks yesterday that he is looking forward to working with others who are seeking to quantify the redistributive impact that may accompany any new classification system. I believe that some of your other witnesses who will be appearing over the next week or two will have views on those redistributive impacts.

The Mercer report is summarized, as I indicated, in the shorter piece that was circulated. Those five pages really outline the background and the approach the Mercer people took and highlight the results of their study.

It also indicates some recommendations that they had to modify the proposed classification system. For example, on page 4 of their summary report, they questioned whether or not the number of mileage bands that were proposed in the classification system could be consolidated in some way. They questioned whether or not that was of great utility the way it is designed now.

I would also draw attention to the very last page in the summary report, page 5, which is headed up Technical Note. That technical note is intended to really help explain the graphs that are in the longer report. Those graphs, at least to me and maybe to others, read in isolation of that technical note, were not as clear to a layman as they might have been. At least I found this technical note helped make them more understandable.

With that introduction, and I hope I have given Colleen enough time to catch her breath, I have asked her to speak to the Mercer report.

Ms. Parrish: As the deputy said, this really covers the first phase of the impact analysis, which is private passenger vehicles and taxis. We have yet to have something final on commercial and the remaining public vehicles area not analysed.

I think it is important to say that the impact study attempts to look at the effect of the change in the classification system, all other things being equal. It assumes no change, that the amount of premium in the system will be exactly the same. We know the board will ultimately be deciding how much premium that should be, but what the study is trying to do is just look at the effect of the classification system by itself, in the absence of any increases or decreases the rate board might say are justifiable.

Second, the study just looked at third-party liability, accident benefit and collision coverages and did not look at comprehensive, specified perils and so on. The reason is that it is really these third-party liability, accident benefit and collision coverages that are rated. By and large, comprehensive, accident benefits and so on are essentially flat-rated. They are very small dollar amounts, often \$25 or whatever.

It was felt we should look at the broad area where the rating changes will occur. Yet I think it is worth noting that the effect of the change will be somewhat mitigated for people who already buy comprehensive and such policies because there will be relatively little change in that area. In terms of their overall premium, there will probably be, again, a somewhat mitigating effect.

The Mercer study used statistics from Ontario. It attempted to find similar experiences by looking at some of the underlying relativities used in

Massachusetts, to use some of the State Farm experience here in Ontario and to try to find comparable classification practices.

It is worth noting that the Mercer study, in the graphs, discusses at some length something called "off-balance." Since I am not an actuary, I found it quite difficult at first to understand what all this meant. In essence, what will happen in the new system is that the introduction of this modified bonus-malus system will generate more income than currently is generated.

That means that if you go into the system collecting X amount of premiums and you simply leave everything the same and add the surcharge system, you will generate too much income. You will generate X income plus this additional surcharge income. In order to ensure that you end up at the end of the day with the same amount of premium, you have to do this thing called balancing. In essence, you go back to the base rate and balance it down to make up for the additional income you are collecting somewhere else in the system. What you see in the Mercer report is an effort to balance the system back, in order to ascertain what would happen under various scenarios.

The Mercer report has assumed what they call a 20 per cent off-balance. It is quite important to recognize that the extent to which income is generated by the accident and conviction surcharge could be as much as 40 per cent; so you would have to balance back the base rates 40 per cent. They have estimated probably 20 per cent off balance.

That is a very technical point, but it is important to recognize that they go through this process in order to ascertain what the possible effects are going to be on certain groups of insureds. Again, I apologize, I am not an actuary and I am trying to give you a broad-brush conclusion of what the report said.

In essence, the preliminary we have received from Mercer's, which you have, would indicate that the effect of the current classification system on experienced drivers, that is, drivers who have driven for more than 15 years and have not had accidents or convictions in the past five years, will probably be to leave them more or less where they are now, in terms of their relative position in the system. That will vary by mileage and use. So if you are a low-mileage, experienced driver, you probably will experience a decrease. If you are a very high mileage experienced driver, you might experience a relative increase. Basically for this large group, in fact it is probably the majority of drivers in Ontario, more than 15 years experience, few or no accidents or convictions in the last five years, there will be relatively little change. Those that have very low mileage will probably have some decrease. Those with very high mileage may have some decrease.

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In terms of relative decreases and increases, who would experience a relative decrease compared to everyone else, who would experience a relative increase in relation to everyone else. Perhaps I could just run down who those would be. People experiencing a relative decrease in the system would be persons who have 35 years or more driving experience, use their cars for pleasure and are low mileage drivers, probably largely retired persons.

Young male operators who are under the age of 25 and have had no accidents or convictions will have a relative decrease. Young female operators who have more than three years of accident and conviction free driving, will also experience a decrease. Drivers with young female secondary operators who

have more than three years claims free experience, where the principal operator is also an experienced claims free driver, will also experience a relative decrease. Drivers with a male secondary driver with three to six years driving experience will experience a relative decrease. Most low mileage drivers who are event-free will experience decreases.

Those who will experience relative increases as a result of the classification system, if it is indeed as we have developed to this stage, are: Adult drivers who are inexperienced drivers, that is have not obtained their licence until they are perhaps in their 30's or whatever and those people who are classified as people who have had no conviction and no accident but in fact have had an accident or a conviction, that is for some reason they have been "forgiven." They have had accidents, they have had convictions, but they have not been rated for that. Relative increases will probably also likely occur for young female principal drivers, that is principal driver being someone who is the principal driver of the car, the owner of the vehicle; young female drivers who have had accidents and convictions, or who have fewer than three years of experience. If they have more than three years of experience and they have not had accidents or convictions, they will probably have a decrease. But, if they have had accidents and convictions, they will probably experience an increase.

Principal drivers that have secondary drivers with less than three years experience of either sex, are likely to experience an increase. There are some variations on that. In some cases principal drivers, female drivers may in fact have a decrease, but by and large most principal operators with secondary drivers with less than three years experience will experience an increase.

Those people who have convictions and accidents will experience relative increases under the system. Indeed, in many ways what the system does is generate income from persons who have accidents and convictions and uses that money in essence to generate income that would otherwise be paid by people who are not having accidents.

The other thing the system tends to do is to look at the very high mileage driver. High mileage drivers are likely to pay slightly more. But if they do not have accidents and convictions, they will probably be more or less where they are now.

For fleet rated taxis, that is taxis that are currently rated not on the basis of their drivers but on their overall fleet experience, will probably be in the same position as they are now. The classification system has proposed a new class of taxi driver called "owner-operator vehicle." We are trying to look at the situation where a driver owns his own vehicle and drives it, and has up to two additional drivers who drive the vehicle with him, who are identified drivers.

The effect of the introduction of that owner-operator class is that for experienced drivers, there will probably be a substantial relative decrease, but for inexperienced drivers, there would be an increase. In the case of taxis, the experienced drivers would be substantially better off even if they did have some convictions and accidents. But the inexperienced driver is still relatively badly off.

I should note, however, that the years of driving experience for cabbies relates to the years in which you have had your licence, not the number of years in which you have driven a cab. I think that is an important distinction to make. An inexperienced driver is a driver who has had a new licence, not

somebody who has just started to drive a cab. So for the purpose of this discussion, we do not look at the number of years you have driven a cab. We just look at the number of years you have held your licence.

That, I think, is the best summary I can give. I hope you all bear in mind that I became a lawyer because I am not very good at adding and subtracting. So a lot of this is actuarial evidence.

Mr. Swart: I want to be clear on the background of this study. Did Mercer apply the weighting factors themselves? They make a recommendation here regarding the weighting factors of experience versus event free--that sort of thing. Or was the weighting given to them by the ministry?

Ms. Parrish: No. We simply gave them the material and we asked them to give us their best professional judgement. There was only one area in which we had suggested that they might want to assume, and that is in the area of how much of a surcharge you might put on an accident or a conviction.

For the purposes of trying to develop a bonus-malus system, we did have sort of certain assumptions. We assumed that, for example, the first event was worth 10 per cent and the second event was worth 20 per cent, or whatever. They did use that approach. But all of the other relativities they obtained either from current practice in Ontario, current practice in Massachusetts, or for some factors--for example, driving distance--they looked at State Farm which is an insurance company which currently uses that concept. But we did not direct them at all because, to be blunt--I do not want to sound like I am gilding the lily--we genuinely had done the best we could at trying to find a balanced system, and we gave it to them so that they could tell us where we had created undesirable or unexpected glitches. Quite honestly, we wanted to know and, indeed, have found a few things that surprised us and that we are going to have to look at. We quite honestly gave it to them and said, "Give us your honest, professional judgement."

Mr. Swart: It seemed to me that the Mercer report, and I read them both over last night, and I must tell you that for a layman it is pretty difficult without any help to arrive at what exactly they mean in this report. But do they not read someplace in this report, or perhaps could have been in the draft that you made, but I believe it is in the Mercer report, they indicated there was no evidence to show that after a certain experience you became a better driver. It seemed to me that they said either five or six years.

Mr. Keyes: That is in the draft.

1620

Mr. Swart: That is in the draft. Yet I find here in this report--and I am concerned about these things because somehow or other draft reports like this often do end up being what is selected.

For instance, if you look at exhibit 2--this is adults only, pleasure use, no secondary driver--we find that for 35 years' experience, three years event-free, low mileage, they will pay, as I read it, 56 per cent of what they are now paying in that classification. Yet if we go down to pleasure use, low mileage, three to six years' experience, three years event-free--exactly the same situation except one has had 35 years' driving experience and the other has had only three to six years' experience--that person is going to pay 46 per cent more, if I read that correctly, looking at the 20 per cent off-balance, than he was paying before.

To me, it seems that difference in experience does not warrant rates double what the person with the 35 years' experience pays, using their own statement or using the statement in the draft, if my interpretation is correct. Am I interpreting that correctly? Is that your interpretation? It seems to me it is totally unreasonable rate setting.

Mr. Keyes: Up to six years is when you are doing your driving change. It is beyond six that they say there is no perceptible change. Therefore, it is appropriate that from three to six years you would pay more. It would be great to get into that seventh year experience, because then you would get the major drop.

Mr. Chairman: Maybe we should just find out if that is the interpretation.

Mr. Swart: Do I have the right interpretation of that?

Ms. Parrish: You will have to bear with me. I believe that is the correct interpretation. You cannot compare the exhibits to each other, if you know what I mean. You cannot compare exhibit 2 and exhibit 3, because the base is not the same. Within the exhibit it is true that if you are a very experienced driver under this system, you do pay proportionately less. In other words, you are rewarded for your long years of driving experience. If you are a relatively inexperienced driver, you do pay more.

The question does arise as to whether or not we have captured the right cutoffs. There does seem to be some evidence from American statistics that there is an improvement in experience among very experienced drivers; that is, between 30 and 40 years of driving experience. There is some statistical evidence that tells you that.

It is certainly true, and I have said before, that there are no magic numbers here. There are no studies that tell you that at 35 years of driving experience you suddenly become a wonderful driver and at 34.5 years you are not. There is some evidence that indicates that very experienced drivers are better risks, especially combined with low mileage, whether the cutoff number is here, there or anywhere else.

Part of the reason we commissioned the study was to find out this kind of information, and it was provided because this was considered to be of interest to the committee, but we will certainly be looking at this. We have generated the information in order to find out what the effect of these things would be.

Mr. Swart: We have not been given any weighting factor by Mercer in his report. That is correct, is it not? Reading it over, I did not see any weighting factor. What weighting factor do you give to experience? What weighting factor do you give to events?

In some instances, it seems the events do not really make that much difference. There is not nearly as much of a weighting factor to events as there is to driving experience. It seems to me that if this report is going to have meaning to us, we should have those weighting factors that they use and that they propose to use.

Mr. Chairman: If it would help you on it and we can fit it within the time frame in terms of the individual and the dates we have, maybe we can bring the actuary who was involved in preparing the Mercer report to answer some of these technical questions for you.

Mr. Swart: I would very much appreciate it if we could have them here. I do not think it is possible today.

Mr. Chairman: No.

Mr. Swart: I read this over last night when I did not have any of the weighting factors. In most of them you have no actual comparison. If you look at exhibit 1, it goes from low-mileage, 35 years experience to medium-mileage, seven to 14 years experience. You go to medium mileage there. I realize if the actuaries had put all the different circumstances, you would have had to have a document six inches thick.

Mr. Chairman: Would you like to save all those questions? Let us see if through the clerk we can arrange to have the actuary here. Then we can do all that good stuff, when we have that person, if we can get him here.

Mr. Swart: There are other factors, too, such as are all events the same? They are not, I know. Drunk driving can be classed as two events. But what is an event under 15 kilometres an hour? Is that one event?

Mr. Chairman: It has no demerit points, so I would imagine it is not an event.

Ms. Parrish: I am sorry, I missed you when you turned your head away.

Mr. Swart: That is the trouble when you have people at two ends.

I was asking if under 15 kilometres an hour is an event. You pay a fine. Is there no difference between 25 miles an hour over the speed limit and 12 miles an hour over the speed limit? Do you have a conviction for both?

Mr. Chairman: It is based on demerit points, is it not?

Mr. Swart: No, it is not based on demerit points.

Ms. Parrish: It is not based on demerit points. In order to get classified as having had an event, you would have to have had two speeding tickets under the current system. If you have one ticket for 15 kilometres, it is nothing. It is a zero. You do not get charged for it at all. But if you get two of them, that is classified as one event.

Mr. Swart: What does it become if you are doing 40 kilometres an hour over the speed limit? Is that one event or is that two events?

Ms. Parrish: It is nothing. You would have to get two tickets in order to--The cutoff point is 50. If you are going more than 50 kilometres, then you get--

Mr. Swart: Yes, we have the minimum.

Ms. Parrish: Their report tells you that they used relativities under the Massachusetts plan, combined with relativities currently existing under the State Farm plan, combined with the Insurers' Advisory Organization.

I do think that for some of these technical questions as to exactly how they weighted those within the system in an actuarial sense, it would be helpful for you to speak to the actuary.

Mr. Chairman: If that can be done when the clerk comes back, we can fit it in. We will try to do that.

Are you finished, Mr. Swart?

Mr. Swart: I think I am finished. The questions I have left should go to the actuary.

Mr. Keyes: It seems to me there was one question we had from this morning's presentation, a problem relative to taxi drivers, that is, that you do not consider them until they have had three years' cab experience. There is something I am missing in that, as far as insurance goes. When they come to drive, the insurance they pay is based on their years of driving experience and they develop a profile as to whether they do or do not have events. There is something I am missing. You cannot start as a taxi driver with three years' of cab experience, no matter how you try. What am I missing in that conundrum?

Ms. Parrish: Our classification system does not say three years of cab experience, it simply says three years of experience. So if you have had three years driving your own car and then become a cabbie, you come in as a three-year experienced driver.

Mr. Keyes: It seems to me that was an issue we dealt with this morning. I will have to go back and look at their submission.

Mr. Chairman: You are suggesting, Mr. Keyes, that on the one hand the licenses handed out for a taxicab driver be different than that of a regular driver, or is that the case already?

Mr. Swart: I understood more that they were complaining they could not get insurance if they had less than three years of cab-driving experience.

Mr. Keyes: Yes. Page 4: "Drivers must have at least three years' continuous cab-driving experience."

Mr. Swart: That is under the old system.

Mr. Keyes: Yes. I asked the question of them and I wanted to get your confirmation. Now, a taxi driver does not have to worry about that. He can come in and start driving a cab if he has had three years' driving experience, period, and if he were accident-free or event-free, that would determine the insurance rate for himself as a driver of a taxi.

Ms. Parrish: If he was in the owner-operator class, yes. If he was in the fleet-rated class, probably no.

1630

Mr. Keyes: Give me the coverage. Here I am. I own five cabs, so I have got seven other drivers who work my cabs. So what am I? Do you call me a fleet?

Ms. Parrish: Do you drive and own your own car?

Mr. Keyes: Yes, I drive and own them all, theoretically, and I have 10 drivers, all part-time.

Ms. Parrish: OK. You would probably be a--

Mr. Keyes: So what am I?

Ms. Parrish: It is hard to say what you are.

Mr. Chairman: We have said that, too.

Mr. Keyes: I am still searching.

Ms. Parrish: Yes. Usually the cutoff is 10 vehicles to be a fleet. You might or might not be an owner-operated vehicle. The classification system proposal attempted to capture the situation where you have someone who owns his own cab and drives it himself and drives it with identified drivers--for example, two other identified drivers.

Mr. Keyes: That is fine.

Ms. Parrish: So in order to get the benefit of this specialized new class that we are proposing, you would have to be an owner-operator. You have to own the vehicle or lease it on a long-term lease, you would have to drive it yourself and you would have to have only identified drivers driving with you so that it would be possible to look at the drivers and say, "Okay, what is your particular experience?" If you are an experienced driver, particularly one who has not had a lot of accidents, you would get a better deal. If, however, you do not know who is driving your cab, you cannot identify your drivers; and if you yourself do not drive it, then you would go back into the fleet rating system and therefore not get the benefit of this new proposal.

Mr. Keyes: Two cabs as an example: I drive one and I have five other drivers. So I am going to get a special rate as long as they--

Ms. Parrish: You would probably get a special rate for one, which would be owner operated. This is a factual issue. The other one sounds to me as if it would not be an owner-operated cab, because you would not have these three identified drivers. But that is sort of a factual issue, and this is a proposal that might be modified or that it might be desirable to modify. I think the Mercer study does show that the proposal would benefit a certain group, but certainly it does not solve all of the problems that are there.

Mr. Runciman: I am just trying to get clarified. There are several references in here to misclassified drivers. They indicate in the report that the vast majority of insureds are six or five star, regardless of their true driving profile. Then they talk early on in page 9 about exhibit 1 and say, "we have investigated the effect of change on the misclassified driver." Looking at it, I cannot see where that comes into exhibit 1. Perhaps you could help me out there. I know it says a six-star driver.

Ms. Parrish: Yes. I guess the way it would work is that if you look at the exhibit, you will see that four down it says, "Pleasure use, seven to 14 years' experience, medium mileage", and then it says, "two events." Now, that is an example of somebody who was misclassified. He was not misclassified; that is probably a misnomer. What happened was that he was classified as if he had not had an accident or a conviction but, in fact, in this case he has had two events, which means one impaired driving conviction, for instance; two accidents--whatever combination.

Mr. Runciman: Yes.

Ms. Parrish: That is what would happen to that driver. Then the bottom category, where it says "four events," will show you what would happen

to a driver who had been treated as if he had had no accidents, no claims and no convictions for five years but, in fact, during this five-year period has had four events, i.e. accidents or convictions. Those two bottom bar graphs show what would happen to the driver who was currently treated as claim free but was in fact not.

Mr. Runciman: So we are saying that they are looking at an increase between 88 and 208 per cent.

Ms. Parrish: I have not done the mathematics, but it is--

Mr. Runciman: Well, just what you have here.

Ms. Parrish: Yes.

Mr. Runciman: You have 188 and 308, so we are looking at an increase of between 88 per cent and 208 per cent--

Ms. Parrish: Yes, I see what you mean.

Mr. Runciman: --for the vast majority of insureds in this province.

Ms. Parrish: No; the vast majority of insureds in the province are in the claim free category. There is a proportion of those people who are classified as being claim free but are not, and I do not know which portion of drivers that is.

Mr. Runciman: But they have suggested it is a significant number.

Ms. Parrish: There probably are some people, but no one knows for certain how many people are in this group. That is because in order to know that, you would have to know the individual practice of every single insurance company. No one knows that. We do know the majority of drivers are currently classified as claims-free, conviction-free drivers. We know that quite a few of them deserve to be because they have had no claims and no convictions. We also know that within that group there are some who perhaps do not deserve to be.

Mr. J. B. Nixon: I would like to supplement what Ms. Parrish has said by reminding members that the weights attached to the individual variables are determined by reference to the claims experience. When you decide the weight you attach to the number of years a person has been driving, as one of the variables in the calculation of premiums, you have to look at the claims experience for that group of people, for instance, who have been driving three to five years. To choose another variable, rural drivers: What is the claims experience for rural drivers so that the cost drives the determination? The cost of the claims drives the determination of the weight which is applied to the variable.

That decision is ultimately made by the board in a public forum after hearing all the advice of the insurance companies, consumers, actuaries, lawyers and whomever else, so that the weights are not manufactured out of thin air but bring some correlation between claims experience and accidents back into the system. Otherwise, everything is arbitrary.

Mr. Swart: (Inaudible) agree with you because I think exhibit 2, that is a certain class, current class.

Mr. J. B. Nixon: I am sorry; I cannot hear.

Mr. Swart: Under that you have, of course, the years of experience and the years event-free.

Mr. J. B. Nixon: I did not hear your first part. You are on exhibit 2?

Mr. Swart: Exhibit 2. The only variable on that exhibit, I have pointed out, is the driving experience between the number one and the number three, yet there is a difference there of 56 to 146.

Mr. J. B. Nixon: I disagree with you because you are not reading it right. There are a number of different variables. Which category are you going from?

Mr. Swart: I am looking at number one, which is low mileage, three years' event-free, 35 years' experience; and low mileage, three years' event-free and three to six years' experience. The only factor in this that varies that rate is the difference in the years of experience. It has nothing to do with claims or anything else.

Mr. J. B. Nixon: You missed my point. My point is that Mercer, when it did this report, attached weights for whatever reason; that is, sound actual reasons and that is why it will be called as a witness. Another person with expertise in the area who does this similar analysis may attach different weights.

Mr. Swart: Oh, I understand all that.

Mr. J. B. Nixon: Hold on. Until we have the claims experience which relates to those different categories, no one can say with any certainty that is the difference which should exist. That will be the job of the board. At this point, it is just a prediction based upon a draft report. They have to tie it back to reality with the claims experience and that will be the job of the board.

Mr. Swart: I understand that, but of course at the present time there are statistics from other jurisdictions which may be similar to ours. That may have been used. They may very well have been used.

Mr. J. B. Nixon: That is correct.

Mr. Swart: I was looking at it and I suggest it is not realistic rate setting. Anyhow, we will discuss that with them.

Mr. Keyes: I have a supplementary. To see whether I understand how to read the graph on exhibit 2, would it suggest, using what Mercer put down here, that under a new system the person with 35 years plus would be paying, let us say, 44 per cent less than he is today, but a person of three to six year's experience, similar events, would be paying 46 per cent more? That is how I read it. I do not know if I am right in my interpretation. I understood that current class of 100 means clears the base right where they are today, so the 35 years' experience is 44 per cent less.

Mr. Chairman: Ms. Parrish says no.

Mr. Keyes: No? Not going the right way?

1640

Ms. Parrish: It is not more than what they are paying now.

Mr. Keyes: No, it is relevant to a position.

Ms. Parrish: It is relative. In fact, the three- to six-year claims free drivers might actually be paying less than they are paying now. If they are under the age of 25, they probably will pay less than they are paying now.

What it is telling you is you what they are paying relative to an average rate, which is set at 100. So in terms of three to six years' experienced drivers, low mileage, three years event free, they will probably be paying more than a 35-year-plus experienced driver. They are probably paying less, particularly if they are male drivers under the age of 25, than they are paying now under the current system.

In order to know that, you have to look at some of the other exhibits, but I think Mr. Swart is right in saying that very experienced drivers, 35 years plus, under this system would pay relatively less than people with three to six years' driving experience.

All of those people are probably going to pay less than they pay now. The relativities came from the Massachusetts system, which is undoubtedly based on statistics they have garnered that have led them to believe, for some reason, that 35 years plus of experience should be weighted relatively differently.

But, as the parliamentary assistant indicated, it would be the job of the board to decide where the relativity should be set, based on the information and statistics garnered from the Ontario experience. This is just an attempt to look at relative positions within the overall system.

Mr. Chairman: Could I ask a question? It seems as though, under the proposed system as well as under the present system, if you have a principal driver and a secondary driver and the secondary driver has an accident with the primary driver's car, the primary driver is then rated at a higher rate because of the accident. The secondary driver then goes and gets his or her own car and he is also rated on that accident. Am I correct?

Ms. Parrish: No. The accident goes with the vehicle or the replacement vehicle. Only convictions travel with the driver.

Mr. Chairman: Oh. So that is under the present situation as well as the proposed one? I thought they were getting two bites of the apple there. Thank you very much for that information.

We have a couple of notes here before we go. By the way, thank you very much to the staff. It has been very informative, and before we--

Mr. Swart: I did say yesterday I had numbers of questions that I wanted to ask, particularly of the superintendent of insurance. Time is late now. May I suggest that perhaps at a later date, further on in the hearings, we may want to have the staff back again; we probably will. Rather than take any time this evening or call them back tomorrow, we could have them back at a later point in the hearings and could set aside time, because other people also may have questions after all the hearings that they want to put to the staff. Would that be agreeable?

Mr. Chairman: At this point the clerk indicates that that would be fine, but you have to recognize that as this goes out over the airwaves, more people are calling in and the slots are becoming filled. So with that caveat, yes.

Mr. Swart: Perhaps it might be the first day of the week--

Mr. Chairman: If for some reason you are not able to ask them, then I think the questions could be put to the superintendent, and perhaps he could give us something in writing or perhaps attend and answer your questions.

Mr. Swart: Perhaps the first day we are going to do clause-by-clause we might consider that we would want to hear them before--

Mr. Chairman: The tentative schedule there is Saskatchewan, so we may have that filled already. OK?

Now, the announcements are that the meeting on January 18 will start at one o'clock rather than two. That is to accommodate the Insurance Agents' Association of Saskatchewan, so would you all make a note of that? That is coupled with the hope that we would all be here to start at the appropriate starting time. We recognize that we all have problems and we all have difficulties, but because people are waiting it is necessary that we start on time. It is my understanding that we have an understanding from all the caucuses that if we have a quorum and there is not a member from each caucus here, we are entitled to start without anybody being upset. Is that my understanding? All right.

The final item is Mr. Kwinter--

Interjections.

Mr. Chairman: The other question, Mr. Swart, you asked about Mr. Kwinter.

Mr. Swart: Excuse me, did you say January 18?

Mr. Chairman: Yes, at one o'clock.

Mr. Swart: You did say Saskatchewan. That is the Insurance Agents' Association of British Columbia.

Mr. Chairman: No; the Saskatchewan insurance brokers' association at one o'clock.

Mr. Swart: Oh. To hear them at that time, and at two o'clock we will hear the--OK.

Mr. Chairman: Yes, so the schedule will follow as stated.

The other item was that the only date we had available to invite Mr. Kwinter was January 18, and on that particular date he is out of town, out of this area.

Those are all the public service announcements. We stand adjourned until 10 o'clock tomorrow morning, sharp.

The committee adjourned at 4:46 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ONTARIO AUTOMOBILE INSURANCE BOARD ACT

WEDNESDAY, JANUARY 13, 1988

Morning Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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Poole, Dianne (Eglinton L)

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Runciman, Robert W. (Leeds-Grenville PC) for Mr. Sterling

Swart, Mel (Welland-Thorold NDP) for Mr. Hampton

Clerk: Mellor, Lynn

Clerk pro tem: Manikel, Tannis

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Financial Institutions:

Nixon, J. Bradford, Parliamentary Assistant to the Minister of Financial
Institutions (York Mills L)

From CAA Insurance Co. (Ontario):

Strand, S. W., Vice-President and General Manager

Keyzers, H. P., Vice-President, Finance and Control

From the Advocacy Resource Centre for the Handicapped:

Santos, Richard, President

Kunc, Norman, Board Member

Beatty, Harry, Legal Counsel

Individual Presentation:

Ioannoni, Emidio

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, January 13, 1988

The committee met at 10:10 a.m. in room 151.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT
(continued)

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

The Acting Chairman (Mr. Keyes): Ladies and gentlemen, we will call the meeting to order. The member for York East (Ms. Hart) is not available just at the moment. She will be here momentarily, but in the interest of time I think we should continue.

We would like to call upon the representatives of the Canadian Automobile Association Insurance Co., Toronto: Laurie Craddock, Stan Strand and Hank Keyzers. Would you come forward please and take a seat at the end. If you have additional people, they should identify themselves.

CAA INSURANCE COMPANY (ONTARIO)

Mr. Strand: Mr. Chairman, I must apologize. Mr. Craddock was unavoidably called away to a more urgent matter and he has had to neglect being here this morning. I am Mr. Strand, vice-president and general manager. I would like to introduce Mr. Keyzers. He is our vice-president, financial control.

The Acting Chairman: Thank you very much. Who will be making the presentation, Mr. Strand? Thank you. Mr. Strand has handed me a single sheet, which is part of the presentation.

Mr. Strand: Our presentation is very brief and to the point. Our position is that in keeping with a subsidiary of an automobile association, we take the move by the government of Ontario to look at this at face value as a positive move to benefit the motorist. Until such time as we find something different, we must accept it as that. We have a vital concern, being a subsidiary of an automobile club, about the motorists of Ontario and that was one of the reasons the insurance company was formed back in 1974. There was a great demand by our members to recommend an insurance company. As this put us in an ambiguous position, there was a major decision made that we would form a subsidiary, and that was one of the main reasons the insurance company was formed.

We operate and are licensed only in Ontario, and it is my understanding that we are one of the few totally Ontario-owned insurance companies operating in this province.

Until such time as the government has had an opportunity to put its bill into effect and we have an opportunity to review it in some depth, our only concern is that we are not put in a position of being unable to meet our responsibilities to our shareholders.

We operate in a manner in which we try to take a little more time with our policyholders, in that many of our policyholders are members, so we have a dual responsibility there. Anything we do reflects on the automobile club, if that person is both a member of the club and an insured with our company.

The Acting Chairman: They do not automatically have to be insured as well as be members.

Mr. Strand: No.

The Acting Chairman: You have the option. If you are a member, can you take straight membership or insurance as well?

Mr. Strand: Yes, sir. It is available to both members and nonmembers. That is required by the act and we have always lived up to that requirement. We of course like to see as many of our members as possible in the auto insurance company. At the present time, I think maybe 50 per cent of our policyholders are members of the club.

The Acting Chairman: Would it be a fair question to ask as to the approximate numbers you have and what that constitutes in premium value?

Mr. Strand: We have about 26,000 policyholders on automobile at the present time, and that would represent about \$17 million or \$18 million in written premiums. I must confess we are very small compared to the others in the insurance industry.

The Acting Chairman: Can you make a comment or do you wish to--I suppose it is allowing an advertisement as well--as to where your rates fall in general versus those across the province?

Mr. Strand: We feel our rates are very competitive across the province, especially for the good driver, because we do support safe driving as one of the major thrusts of the Canadian Automobile Association, and we lean towards that.

We do monitor our rates on a regular basis and try to maintain a very competitive rate. That is one of the concerns about the rate-making and the changes in the underwriting criteria that we have, in that it is not a matter that we want to penalize, because many of the members of the automobile club are in the senior age groups and we do try to give them a preferred premium rate. It would almost be reverse discrimination if we were unable to provide that.

The Acting Chairman: Do you have many discriminatory aspects of it at the moment, as far as age levels, where you provide insurance?

Mr. Strand: No, because we view under-age drivers--many of them are coming in through driver education. We accept on face value those who have taken driver education courses because they have taken those courses.

Mr. Swart: I want to follow up on some of those questions. I gather from what you say that you are not a nonprofit organization nor are your shares held by CAA members. You operate as an independent insurance company, the same as most of the private insurance companies within this province.

Mr. Strand: That is right.

Mr. Swart: You are not a co-operative or anything of that nature.

Mr. Strand: No. That is quite clear in the brief.

Mr. Swart: I am not sure whether, in answer to the acting chairman's question, you implied that you support the proposed legislation, Bill 2, which would eliminate discrimination based on age, sex and marital status. We had representation here yesterday, as you may know, from State Farm, in which it strongly objected to that.

Mr. Strand: I did not make that statement, sir.

Mr. Swart: I am sorry.

Mr. Strand: We support the bill on face value, that it will benefit the motorists of Ontario. How that benefit is applied will take some time to tell.

Mr. Swart: Do you want to pass any opinion, though, as an insurance company, on the proposals which would, as I have stated, eliminate that type of so-called discrimination?

Mr. Strand: I would beg off on that until we have an opportunity to review how the rate controls are going to be applied. We have not had the opportunity to go that much in depth into what the new underwriting criteria will be.

Mr. Swart: I understand that as a small company you do not have the research staff.

Mr. Strand: That is correct.

Mr. Swart: Have you had the opportunity yet to see the draft proposal on which the classifications will be based, or the Mercer report?

Mr. Strand: No, sir.

Mr. Swart: Mr. Chairman, perhaps they could be provided with that while they are here today.

Mr. Strand: In our earlier conversation with members of your staff, they told us that may be available to us at this meeting.

The Acting Chairman: We will see that they are made available today, because they are here. I do not see our resource person with the box of goodies today, but they will be here before you leave.

Mr. Swart: I presume that as a public company you put out an annual statement, which I have not seen. Is your operation profitable at the present time? Do you just deal in auto insurance or do you have general insurance?

Mr. Strand: We have general insurance. We deal in automobile, property, health and accident.

Mr. Swart: What is the ratio of that? Do you mind telling us?

Mr. Keyzers: The auto part is approximately 89 per cent of it, so the property is very small.

Mr. Swart: Have you been operating at a profit level in the last few years?

Mr. Strand: No, sir, not in the last few years. We reached a profit at the end of 1986. It appears that we will have a slight underwriting loss in 1987, but we have improved considerably. In 1984-1985, we suffered badly.

Mr. Swart: When I say "profit," of course I am including interest on investments, but you have still had a net loss in a number of recent years. The bottom line is that you have had a loss, including interest on investments.

Mr. Keyzers: We had a small loss, I believe, in 1985, but the years before that were profitable.

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Mr. Swart: And since then?

Mr. Keyzers: Since then as well. We had a fairly good year in 1986, and we are going to have a fairly good year in 1987.

Mr. Swart: Are you part of the Insurance Bureau of Canada?

Mr. Strand: Yes, we are.

Mr. Swart: You belong to it?

Mr. Strand: That is right.

Mr. Swart: I presume then--well, I should not ask that because of course then you would be supporting their submission. Perhaps you have not seen it yet, as we have not. Those are all the questions I have.

Mr. McGuinty: Would you have a figure indicating the percentage of your policyholders who are members of the association?

Mr. Strand: As best we have been able to determine, we have about 50 per cent of our policyholders as members of the association. That could be a little bit misleading in that many relations of members are with the company, but they would not be members of the club.

Mr. McGuinty: Yes. In what way does the fact that you are a subsidiary of the CAA automobile club condition--or does it condition?--your setting of rates or your screening of applicants? Are you more indulgent?

Mr. Strand: It has no legal basis on how we operate the insurance company. As a subsidiary of an automobile club, however, we have a moral obligation that anything we do is reflected on the automobile club. The members are very quick to voice anything that they find wrong with any services either from the insurance company subsidiary or the automobile club. They will voice that very quickly. What we try and do is provide a unique basis of service, which is what we have done since the insurance company was formed.

Mr. McGuinty: Do you think that is done in significantly different ways than it would be, for example, by other insurance companies who are not so affiliated?

Mr. Strand: I would hesitate to speak, but we have learned from complaints we have heard from members regarding other insurance companies, names unknown at this time. We try to do certain things a little differently. One of the major complaints that used to come up to us at certain times was the fact that, when calling a claim after hours, they got an answering service. We do not have that. We have a communications department manned seven days a week, 24 hours a day, to take those calls.

Another factor that we have put in place to eliminate some problems was that all lapsed policies, all cancellation of policies--for any policyholder who cancels--are confirmed by registered mail to make sure there is no possibility that person was not given the opportunity to know it. Another factor is that we have never applied surcharges or increases mid-term. We wait until the next renewal date and we do spend a great deal of time, where there is a misunderstanding, on communicating with the policyholder.

Mr. Runciman: One gentleman was mentioning the new rate classification system and some of the things they have been doing that benefit policyholders that they will not be able to carry on with the new system. I am wondering if you would be more specific about some of the benefits that are available now that you see being removed.

Mr. Strand: I am not sure whether they will or will not be removed. We provide a highly preferred rate to a senior-aged driver group because we are fully aware that senior-aged driver group is not driving to and from work during the busy rush hours.

Mr. Runciman: That is based solely on age and not years of driving experience?

Mr. Strand: That is correct, because this an overthrow and a continuation of the auto club. The auto club has many senior-aged members who are excellent drivers. They are very careful drivers. We have been able to address their age and driving habits by a preferred rate. Of course, until we have an opportunity to read how the new underwriting rate will be controlled, our concern is that we would hate to see those people being penalized.

Mr. Runciman: Is that the only preferred rate you have? Do you have other preferred rates that you could tell us about?

Mr. Strand: No. We have the normal preferred rate that all carriers do, being that of the driver who has driven a number of years without any accidents or without any traffic violations. That is pretty standard throughout the industry.

Mr. Runciman: So that is not going to be affected by age or sex discrimination?

Mr. Strand: No.

Mr. Runciman: You do not see anything else, other than the senior one?

Mr. Strand: Other than that senior age group; that is correct.

Mr. Runciman: You mentioned that you feel you are very competitive and that, coming in with the rate-setting powers, your ability to compete is going to be somewhat restricted because all companies are going to have to be living within those rates that are set by the board.

It was suggested by a witness yesterday that this indeed could impact negatively on smaller Canadian companies in the long run because there is not really going to be that much to choose from in terms of a rate differential. The big guys, the people who have the ability to advertise, are very well known and have prominent locations for their business operations, etc., by and large are the people who are going to benefit from this kind of an initiative. I am just wondering whether you have given that any thought. Do you have concerns?

Mr. Strand: I do not think we have too much concern in that respect, because we know that, being a subsidiary of an automobile club, we have a pretty high profile within a very preferred group.

Mr. Runciman: You are a subsidiary of an American automobile club?

Mr. Strand: No, no, we are a subsidiary of CAA Toronto automobile club, which is the affiliate of the Canadian Automobile Association.

Mr. Runciman: So this is a national operation.

Mr. Strand: It is a national operation, but CAA Toronto is an autonomous company and we are a subsidiary of CAA Toronto.

Mr. Runciman: So you would not qualify as a small Canadian operation.

Mr. Strand: That is correct.

Mr. Farnan: In presenting your package this morning, you appeared to be extremely careful and cautious in passing judgement on Bill 2. My feeling is that you have the hope that Bill 2 will perhaps provide some government monitoring but essentially will maintain the status quo in terms of how you will be able to function. If this were the case, would that allay any apprehensions that you have?

Mr. Strand: Yes, it would, because we have the advantage--and I hate to keep referring back to our parent company being the automobile club--of dealing with other automobile clubs across Canada which also are affiliated with the Canadian Automobile Association and are working under very similar systems, as we pointed out in our presentation, and they have found it to work very, very effectively.

Mr. Swart: Since my first questions, I am just wondering about the subsidiary. You mentioned you are a subsidiary two or three times and yet you mention you are an independent company. In what way are you a subsidiary of CAA Toronto? You have shareholders; do they not elect the board? Is your board appointed by CAA? This is a matter of information for me. In what respect are you a subsidiary?

Mr. Keyzers: The CAA, first of all, is a nonprofit organization.

Mr. Swart: Right. I understand that.

Mr. Keyzers: The insurance company is a commercial activity, as a subsidiary of CAA Toronto, and shares were issued from the subsidiary to the parent company. It is 100 per cent owned by the auto club.

Mr. Swart: I see. Does the auto club own all of the shares?

Mr. Strand: All of the shares.

Mr. Swart: Then all of the revenue, the profit you make, goes in fact to the members of CAA?

Mr. Keyzers: Absolutely not. The money stays in the insurance company. By regulation, we have to maintain a certain liquidity.

Mr. Swart: Right, of course.

Mr. Keyzers: Over the last 12 or 13 years that we have been in operation, we have never passed over any money to the auto club. We have basically used whatever profits we have generated in that company to substantiate our growth in the insurance industry.

Mr. Swart: But at some point--

Mr. Keyzers: In fact, we have passed over more money to the sub in additional share capital to maintain our liquidity.

Mr. Strand: That is right.

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Mr. Swart: Do you intend to actually operate it as--I was going to say a nonprofit company, but that is not the right word--a company at rates which are just self-sustaining?

Mr. Keyzers: That is correct.

Mr. Swart: So no money is going to be paid to shareholders.

Mr. Keyzers: No.

Mr. Swart: OK. That explains it; it is sort of a hybrid.

Mr. Keyes: Just a subsidiary to questions asked.

Interjection: Supplementary?

Mr. Keyes: Supplementary. You have got me going there, Mel. I have a supplementary to Mr. Runciman's question. If I were in the legal profession, I would say Mr. Runciman had asked rather a leading question of the people. Is it really in your rates that you are giving preference to senior drivers or is it not really true, much like our draft legislation, that the benefit would be given to years of experience of drivers? There is a slight distinction. We are attempting to alleviate anything that has to do with age as a factor, so have used years of driving experience. Yet the answer came back that you give it to seniors. Really, upon reflection, is it seniors or is it years of good driving experience?

Mr. Strand: It is both. The question was asked by another member of the committee. We have the normal rating capacity that we address and reward a driver who has driven a number of years at-fault accident-free and without any traffic violations. On top of that, we have a senior age group we know is not driving during those peak periods, that drives less. If it is a bad day such as this morning, a lot of those senior people are retired or semi-retired, and they just will not go out. The risk is considerably reduced and we address that. That is solely due to their age.

Mr. Keyes: So there are both factors.

Mr. Strand: That is correct.

Mr. Sola: In your statement, you seem to be willing to accept Bill 2 but with a note of caution. In your concerns, you express the statement that you are afraid of imposition of rigid controls which would circumvent basic underwriting practices or affect your ability to set sufficient premium rates to meet fair levels of profit. I wonder if you could elaborate on your fears.

Mr. Strand: We hope this will not become such a legislative straitjacket that we will have no flexibility in setting rates and rewarding certain rates. As I pointed out, we have the senior age group. That is based on age, because we know those people are not driving and do not have the same exposure as others.

The point is that we do want to operate a good company. We feel that we have a unique blend of service at this company. Our concern is that we will be able to operate with some freedom to address matters of rates as we come up. If the rates are clear-cut, as was raised by a member of the committee, very well; if all the rates are the same, there is little choice between companies. That does not concern us, but it would also eliminate certain classes we would like to deal with, such as that senior age group.

Mr. Runciman: I gather you have not had an opportunity to assess what the proposals might mean to the rates of your customers.

Mr. Strand: No, we have not. We have not been privy to this before this date.

Mr. Runciman: I guess State Farm was privy to the information. One of their principals was involved in the formulation, I gather, so we had an assessment from them yesterday.

One of the comments of the Mercer report was that most companies have a five-star or six-star classification for their--

Mr. Strand: That is correct.

Mr. Runciman: What percentage of your customers would that represent?

Mr. Strand: We are very fortunate in that respect. Approximately 90 per cent of our policyholders are in driver class 6 or driver class 5.

Mr. Runciman: Would you suggest or confirm something said in the Mercer report? It indicated essentially what you are saying, that the majority of drivers in this province are classified as five- or six-star drivers but that a significant number of them are misclassified. They may have had an event or two which for a variety of reasons are overlooked, if you will, by the company, and they retain that five- or six-star classification. Is that the case with your company as well?

Mr. Strand: No, it is not. It may have been prior to 1986, but we did a thorough examination of our in-force policyholders due to the fact that we were suffering substantial losses.

Mr. Runciman: Can you tell us how someone qualifies for a five- or six-star rating with your company?

Mr. Strand: Yes. Some people call it six-star, whatever you want to call it. What we have for the six-star is a person who has driven six years without an at-fault accident and three years without a conviction for a moving violation.

Mr. Runciman: So you do not take events, if you will, into consideration at all.

Mr. Strand: What type of events?

Mr. Runciman: Speeding.

Mr. Strand: Yes, that is a moving violation. That is a traffic conviction.

Mr. Runciman: There is nothing else that would fall under the definition of an event. Would a fender bender of some sort be a moving violation as well?

Mr. Chairman: I think that is the definition that was applied by our staff for Mercer.

Mr. Runciman: Which was?

Mr. Chairman: The word "event."

Mr. J. B. Nixon: The word "event" includes moving violations under the Highway Traffic Act, the Criminal Code or an accident, regardless of who is at fault.

Interjection.

Mr. J. B. Nixon: It is just a definition. You may disagree with it, but it is there for discussion purposes.

Mr. Chairman: This could be an event here, actually.

Mr. Runciman: It may yet be. The day is young. I am still trying to get this straight in terms of three years. Even if there was an event, let us say you had an accident or several accidents and you were not at fault--

Mr. Strand: That has no effect.

Mr. Runciman: That has no impact whatsoever. Okay, thanks.

Mr. Swart: Perhaps I could have a supplementary on that. On such things as an accident in a shopping centre, do you class them, as most insurance companies do, 50-50? It does not matter whether you are to blame or not. Do you do the same thing?

Mr. Strand: We follow the fault chart that has been set down by many companies. We follow that same process.

Mr. Chairman: I notice that you are plugged in this morning. Is there a reason?

Mr. Swart: I am not sure this is pertinent to our discussion, but--

Mr. Chairman: That is all right, never mind.

Mr. Swart: --the reason is that our public address system was cutting in and out yesterday. It may be fixed now. I guess I should try it first. I want to be sure I hear everything that is said, including the interjections.

Mr. Chairman: I see.

Mr. Cureatz: Especially from your own witnesses.

Mr. Swart: Unlike those who ask leading questions, I want to hear them from all witnesses.

Mr. Chairman: Touché. Mr. Nixon, do you have any comments?

Mr. J. B. Nixon: On behalf of the ministry, I would just like to thank you for coming and invite your comments on the uniform classification system. There is a consultation period of probably 75 days, if you take today into account. We would appreciate your valuable advice in that regard.

Mr. Strand: Thank you very much. Thank you for having us here.

Mr. Chairman: Thank you very much for coming forward. We appreciate your input.

ADVOCACY RESOURCE CENTRE FOR THE HANDICAPPED

Mr. Chairman: The next group is ARCH, the Advocacy Resource Centre for the Handicapped. Are Richard Santos, Harry Beatty and Norman Kunc here? Just have a seat there and identify the parties for the purposes of the Hansard record.

Mr. Santos: I am Richard Santos. I am president of the board of directors of ARCH.

Mr. Beatty: Harry Beatty, a staff lawyer with ARCH.

Mr. Kunc: I am Norman Kunc. I am serving as a consumer as well as a family therapist. I work with victims of motor vehicle accidents.

Mr. Chairman: Perhaps I could ask you, Mr. Kunc, is there a written brief?

Mr. Santos: Yes, there is. I will distribute it.

Mr. Chairman: Who will be presenting it? All three of you?

Mr. Santos: I will be introducing ARCH and my two colleagues, and they will carry most of the presentation.

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Mr. Chairman: Mr. Santos, you have probably heard from the chairman sitting in for me that we like to see if the brief itself can occupy half of the time and then questions half of the time. That is normally about a half an hour in total.

Mr. Santos: Very good. I will make my remarks very brief.

Mr. Santos: ARCH is a clinic under the Ontario legal clinic system. It serves disabled people, all kinds of cases and all kinds of activities. We have had cases of inquiries around insurance and the driving situation. I am here to tell you, however, that I am not here trying to get drivers' insurance myself. I will put everybody at rest. However, the issue is quite significant and ARCH has had experience and has been involved with it.

The first person I will introduce is Harry Beatty, who is a staff lawyer. He is currently serving on the advisory committee to the Osborne effort. I will let Harry carry on with the brief and then I will introduce Norman Kunc in a few minutes.

Mr. Beatty: Our concerns about motor vehicle accident compensation and insurance fall into two broad areas: first, the rights of disabled people to purchase automobile insurance without discrimination and, second, the other side is compensation and rehabilitation benefits, particularly as they affect those who are most severely injured.

As Dick pointed out, we have some background in this area. We were counsel to a coalition that worked on the inclusion of disability as a prohibited ground of discrimination in the Human Rights Code in 1982. We cosponsored a public debate on no-fault insurance and we get, I guess, in excess of 2,000 inquiries annually about all areas of the law related to disability and some number of them relate to the area we are concerned with today.

We endorse the statement by the minister during his opening remarks to this committee that the Human Rights Code will be amended and the classification regulation will respect that age, sex, marital status or family status or handicap will not be considered in selection or classification of automobile insurance risks. We believe this is right. Of course, some disabilities prevent people from driving safely, but when someone has qualified for a licence, he or she should be considered for insurance on the same basis as other drivers and on the basis of the objective criteria. It is our understanding that there is really no evidence or correlation developed by the insurance industry to relate disability empirically to poor driving records or poor claims records.

While we have not researched it in detail, based on our inquiries and based on one small-scale survey we did in 1986, we do find that some insurers, but not all, are reluctant to insure people with disabilities. Often it is not expressed directly, but the approach will be, "It may take some time to process your application." In the small-scale survey we did in 1986, basically we had someone call a number of insurers--there were nine--and say, "I am a 30-year-old woman with epilepsy. I have a clean driving record, but I have some history of seizures and I have only got my licence back six months ago following two years of being seizure-free." Of the nine companies, one quoted at a regular rate, two would quote at about \$1,000 higher, five refused and one, having learned of the epilepsy, simply refused to answer the calls.

I think that reflects people's experiences. We hear from people that there is a minority of companies that has established a nondiscrimination policy, but there are others that, at least, do not seem to be very responsive. So we endorse bringing this matter within the human rights commission's jurisdiction.

One problem that remains is that complaints to the human rights commission may not always be an effective remedy. We find there are delays when people complain to the commission; so basically we are endorsing increased resources and staffing to the commission, particularly to look into the systemic discrimination situation where some insurers may not be ensuring disabled drivers at all.

Second, we have perhaps a specific proposal to deal with the situation where matters are before the commission for what is often several years unresolved. We propose that in the interim people be given insurance through the Facility Association, but at the competitive rate established by the proposed board.

I now turn to the area of compensation and rehabilitation for accident victims. I will start with our recommendation. It is our belief that the consideration in this committee of Bill 2 should not be completed until the report on the Osborne inquiry has been received, analysed and made public. Essentially, the work of the inquiry is complete, and the submission will be made within a few weeks. His report as a whole should be considered before decisions are made.

We recognize that Bill 2 does not directly address the issue of adequate compensation and rehabilitation for accident victims, but we are concerned that it may have implications, simply because in any compensation system a large determining factor of what compensation and benefits are paid is simply the funding available to pay for them. By the time these aspects of Mr. Justice Osborne's inquiry come to be considered, we will already have a system in place on the rate side. It may not be so easy to consider the needed reforms in the compensation and benefits area.

As someone who was on Mr. Justice Osborne's committee and who has looked at the major submissions to him, I think it is clear that all major players, if I could put it that way, the Insurance Bureau of Canada, the Canadian Bar Association--Ontario and so on, have accepted the need for major increases in the no-fault section B benefits. There are significant differences between their positions, but I think on this point everyone is in agreement.

It is worth reviewing the history of this issue. In 1977 and 1978, there was a committee of the Legislature that looked very carefully at the whole area of automobile insurance and produced two very comprehensive reports. At that time, they recommended that the no-fault benefits be doubled from \$70 per week coverage to \$140, and that recommendation was accepted. A decade later, it is still \$140. That is all that you get on a no-fault basis under section B, accident benefits.

The other aspect of the no-fault benefits is the \$25,000 limit. Again, the committee in 1977 and 1978 decided to go from \$5,000 to \$25,000 for medical and rehabilitation benefits. That was done. The maximum sits there to this day. It is not mentioned in our brief, but there is a case called MacDonald et al. and Travelers Indemnity Co. of Canada in the Ontario Reports, 60 OR (2d) 385, which I think is significant and should be looked at. Basically, in that case the young woman, who was seriously and permanently injured--

Mr. Chairman: Excuse me. Perhaps we can ask that a copy of that be made available to members of the committee.

Mr. Beatty: In the MacDonald case, the facts were basically that the injured woman, who was very severely and profoundly injured, was a resident of Ontario but attending a Michigan university. Michigan has a no-fault system with unlimited medical and rehabilitation benefits. She was injured in Michigan in an accident while a passenger in a leased van, owned and rented in Ontario. A major issue that was decided preliminary to this trial was that Michigan law rather than Ontario law applied. In that case, it meant her family, which had taken on the task of lifetime care, got an award of several hundred thousand dollars, found by the judge in that case to be reasonably necessary for her care. If it had been in Ontario with Ontario law applying, it would have been \$25,000 for that family.

So the no-fault benefits need to be looked at. In the most serious cases, I think the minimum limit of \$200,000 insurance which you can drive with also needs to be looked at because, in light of the great increase in major head injuries and spinal cord injuries, there is not funding for lifetime support in many of these cases, not because the person does not have a good tort claim, but because that is as deep as the pockets go.

Also, there needs to be more resources coming out of the system for rehabilitation. A good rehabilitation program delivered quickly and expeditiously and adequately funded is really a win-win type of solution where someone has been seriously injured, in that clearly the compensation system, whether public or private, benefits in having the person less dependent, out and working. At the same time, the person clearly benefits. While Mr. Justice Osborne's report is not in, it is our understanding that evidence before him and submissions to him from rehabilitation professionals indicated there were substantial delays in the system, which can be very costly in personal terms.

Basically, our concern is that these issues, this other side of the motor vehicle accident problem, which maybe has not received the same attention, needs to be dealt with together with the rates issue; otherwise, by the time it comes to look at the compensation side, there may already be substantial decisions in place about the system.

Mr. Santos: I want to do a little introduction. Mr. Kunc is a resource to ARCH, and we are very lucky to have him here today. He has had cerebral palsy from birth. However, he received his driver's licence at 16 and still maintains it, which is significant. Also, he is a practising family therapist. He works with the Credit Valley Treatment Centre for Children and is also in private practice. He has been a consultant to the assistive devices program of the Ministry of Health.

He will address various issues in relationship to rehabilitation and also to the whole picture of disabled people being safe drivers and deserving insurance.

Mr. Kunc: Just briefly, I would like to give a bit more flesh to the reasons behind providing equal insurance premiums to people with disabilities. I think there is a popular misconception that people with disabilities in one area are somehow less safe drivers. Usually, this arises out of a lack of knowledge about the different disabilities.

To cite my own example, my fine motor control is damaged. That means I cannot hold a cup of water still without drenching myself. However, the muscles which are required to drive a car are different and much larger; so I can drive a car perfectly well and the cerebral palsy is not a factor. I would not be behind the wheel if it were.

Then there are the reflexes. Normal reflex time, I have been told, varies from 0.21 to 0.25 seconds for an average person of about 30 to 40 years old. If you are a goaltender for the Leafs--I have also understood that the Ministry of Transportation accepts a reflex time under 0.3 seconds to be safe. When I tested my reflexes, they varied from 0.25 to 0.27, so I am three one-hundredths of a second slower. I think that demonstrates that a particular disability which affects fine motor or speech control does not necessarily mean a person has gross motor limitation or render him or her incapable of driving a car.

The other factor is that people with disabilities, first of all, are in daily awareness of their limitations. I cannot get out of my bed and walk to the bathroom without being confronted by my limitations, which is a significant factor when I go out driving, because my limitations are very real to me. Also, in other disability groups, the tendency is, when one sense or sensory ability is damaged, that the person almost by necessity has to concentrate to a greater extent on other senses.

For example, people with hearing impairment who are deaf, in order to survive, whether they are just walking on the street, must concentrate much more on the visual cues around them. As such, that just means deaf people might be more sensitive to seeing that flashing light of an ambulance. Where I might hear it first, they would see it, simply because their disability demands that they are more aware of their other senses. I would feel much safer driving with a deaf driver than with a person driving a Camaro with hard rock music turned up full blast. That is an example.

On the point that Harry mentioned, I would just like to reiterate that we are not aware of any statistics that correlate disability with an increased number of accidents. There are, however, statistics which do correlate age with number of accidents, especially young male drivers. If the government is introducing legislation which forbids discrimination, even though there are statistics there, surely it has to follow through in the area of disability, where there are no statistics. Again, we are not saying that all disabled people should drive.

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Mr. Chairman: I think Mr. Santos--

Mr. Kunc: You are right.

All we are trying to get at is the awareness that people with disabilities are able to drive safely despite, often, the public misconception to the contrary.

I would like to speak briefly from my experience as an augmentative-to-communication consultant and family therapist about the whole issue of the compensation benefit. In general, people want to return to their lives. Generally, when people have an accident, there is a desire to get back to the job.

I think we have to realize first the cost that is involved. If a person becomes a quadriplegic as a result of an accident, to simply equip a van in order that that person can once again drive costs \$30,000. It is already over the entire budget of \$25,000.

Augmentative communication devices, both oral in terms of having the person have a means to express himself in talking conversations and with written communication, can go up to \$15,000 to \$20,000 for some of the more sophisticated standing systems. The types of devices that turn on lights and TVs by remote control or with a tongue stick are very expensive.

The thing we have to realize is that, if these devices are in place, and that presupposes the funding is in place, then I think people will be able to capitalize on that drive to get back to a wide-ranging life. If the money is not there and there are significant delays, that has a detrimental effect on the person's own motivation. The stress of waiting and the uncertainty of whether they will get anything compound the factors.

Second, I think we have to realize that the impact of an accident and then the rehabilitation not only focuses on the individual but we have also to look at the resources which must be provided in terms of the family and in terms of, possibly, the marriage.

If a mother has gone through 18 or 20 years of child-rearing and got ready in herself for a more relaxed, retired life and then there is an accident and she finds herself in a caretaking position, that is a major shift that the family undergoes. As a consequence, they need family counselling with some type of assistance, perhaps help in residential care.

Also, in terms of marital counselling, a number of people who are in a car accident often find that there are very, very serious issues. Now that the person is severely disabled, what does that mean for his or her marriage?

There is a whole wide range. I have worked with adolescents. One girl who was 12 years old, was coming home with a report card of solid A's, and she was so engrossed and proud at the solid A's she accidentally walked on the street when the light turned red and was hit and severely brain-damaged. The type of individual therapy that has to go on with that girl is very extensive. I believe we can capitalize on that motor vision. We do need a significant increase in the compensation and also some means to ensure that those funds are readily accessible and are received as expediently as possible.

Mr. Santos: We are ready for questions.

Mr. Chairman: OK. I have Mr. Cureatz.

Mr. Cureatz: I want to say how much I appreciated the presentation. It brought to mind a couple of questions. The one is in terms of the evidence of the varying degrees of handicap problems that individuals have. It was brought forward with the first presenter, the phone calls to the various insurance companies and the response, "yes," "no," and "maybe."

Have you encountered any kind of specific statistics that various insurance companies have about how they treat the degrees of handicap and whether there is some kind of sliding scale on the amount of insurance that has to be paid?

Mr. Beatty: I do not think we have any information at all. My understanding from insurance representatives is that they will say it is considered on an individual basis, but I do not have the picture of their being that kind of policy in point.

Mr. Cureatz: I wonder if anybody has a picture of it. That would possibly be something worth while for the committee to pursue. It seemed to me a categorical denial would be the easier route for the insurance company, as opposed to getting into the nuts and bolts, the degree of the handicap and the past experience of statistical proof of other handicapped people who have had driver's licences and insurance and whether they have had accidents, etc. Maybe there is whole shedding of light in that area. I do not know. I am not familiar with it.

Mr. Kunc: May I respond to that? People with disabilities do undergo that test far before they get insurance. They must demonstrate that they can safely drive a car through the driver's examination on the road. The reverse is that it would be very hard to categorize cerebral palsy as being that dangerous. I can drive a car and a friend of mine cannot while she can hold a glass of water and I cannot. So every case is so different that it would be hard to categorize.

Mr. Chairman: I wonder if I could just interrupt you for a second. In the case of MacDonald and Travelers Indemnity Co, you recall that I asked if we could get a copy of that. It is apparently a very lengthy case. I am wondering if the headnote would suffice to establish the principle that Mr. Beatty gave us, without the necessity of going through the photostats of the whole case.

Mr. Cureatz: I wonder what our law professors would say about that?

Mr. Chairman: Look, I was raised on headnotes. I never read the case history.

Mr. Cureatz: Oh, I see.

Mr. Chairman: But if that is agreeable, we can stop the process now. There is not much point in wasting time and resources.

Mr. Cureatz: No, I think that will be fine.

Ms. Swift: It is about 50 pages.

Mr. Chairman: Well, maybe you could just tell them to forget it if that is the consensus. If anybody has a desire to read the entire case, I assume Mr. Beatty probably has it there, or you could attend the library and read it yourself. OK? I am sorry, Mr. Kunc.

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Mr. Kunc: All I am saying is that if a person with a very specific disability has, through the driver's examination, proven that he or she is capable of driving a car safely, I believe that person should be given the same insurance premium as anyone who passes the same test. Based on their experience of driving, then I believe the differences in rates can follow. I see that as being a far more equitable and far more fair and sensible approach to insurance rates than trying to categorize the degree of disability or degree of deafness or whatever.

Mr. Cureatz: So there should be a strict concentration on the fact that a person has received a driver's licence, and then look at that individual's record.

Mr. Kunc: Right.

Mr. Cureatz: Notwithstanding that, I would be curious--to our research staff, I say we can bring to mind when we have the various insurance companies before us to ask periodically about the kind of coverage they do provide for the handicapped, whether there are special categories within their companies and how they evaluate those situations.

Mr. J. B. Nixon: I do not want to prompt questions, but I would encourage you to ask that question also of brokers. Often I would expect that the applicant is dealing with a broker, and a broker is going to say, "I am quite happy to get your insurance, but it is going to take some time." As he phones around to his companies, he may find individual companies saying no. So the brokers may be a good source too.

Mr. Swart: I too just want to say how much I and my party support the brief you have presented here today.

If I may, Mr. Chairman, I just want to say, from two points of view, I have some personal experience in this. A very close friend of mine had muscular dystrophy. You might possibly have known him, Russell Avery. We travelled together for many years. He died two or three years ago; he was very active in a handicapped association. I know the problems he had.

Second, we had numbers of people, including your organization, make presentations to our party tour relative to their inability to obtain insurance or about high rates that many handicapped people had to pay for insurance. So we followed up on some of these.

Just in answer to Mr. Cureatz, I would say there is a great variety in the treatment by different insurance companies. Some insurance companies in fact said, "We are big enough and we are humane enough that we will give the same rates as to anybody else." But many people had trouble getting the insurance, there is no question about that. As I say, we took some cases up with the ministry or individually with the companies and we were able to get some alleviation.

You may or may not know that at the start of these hearings, the minister made the announcement--I think it was confirmed once or twice afterwards, and I hope the parliamentary assistant will confirm it today--that there will be an amendment to Bill 2 which will prevent discrimination. It will actually be put in the bill.

Perhaps it is not immodest of me to say that I raised this in second debate quite extensively and said that it should not be left to some classification system that is going to be devised by the government but should be right in legislation. I believe it has been stated now that this will be in legislation. Certainly, if the government does not move an amendment, I will.

Mr. J. B. Nixon: Perhaps I can help you there, Mr. Swart.

The operative piece of legislation in terms of discrimination in the province is the Human Rights Code. By way of amendment to Bill 2, we could not effectively override the Human Rights Code. So if we said in Bill 2, "You cannot discriminate on the basis of disability," still the Human Rights Code would apply.

What we propose to do is amend the Human Rights Code. That is simple, that is straightforward, and I am sure the witnesses before us would agree that is the appropriate way of dealing with the matter. That will be one of the amendments the ministry staff will put before you, hopefully tomorrow.

Mr. Swart: I might disagree. I am no lawyer, but anything in the classification system could not override the Human Rights Code; it is just not overriding the Human Rights Code. The Human Rights Code does not say you must discriminate because of a disability. You could write this in the same way we have for young people, the antidiscrimination on insurance rates. It can be in the classification system here.

I am hoping this will come about in the Human Rights Code. I think we need it in the Human Rights Code; I do not disagree with that. How long is that going to take, if we have to amend the Human Rights Code? We now have a bill before us which can be amended and which conceivably will be dealt with during the week of February 8.

Mr. J. B. Nixon: Mr. Swart, let me answer your question. I have told you we will be putting the amendment before you tomorrow. That is when it will be dealt with: tomorrow. As a matter of fact, the idea of amending Bill 2 is entirely inappropriate. If we as a government intended to deal with discrimination on the basis of legislation piece by piece, we would get rid of the Human Rights Code and amend all 280 statutes in Ontario to prohibit discrimination, but that does not make sense.

Mr. Swart: In spite of what the parliamentary assistant says, of course we cannot deal with the Human Rights Code in this committee. You may have an amendment put before us, but we can only deal with it when the Human Rights Code is brought before the Legislature.

Mr. J. B. Nixon: If you want to oppose it on technical grounds, you are welcome to do so, but I suggest the government is interested in proceeding.

Mr. Swart: I am not suggesting that the government is not interested in proceeding. I--

Mr. Chairman: I understand your point, Mr. Swart, and I--

Mr. Swart: It is a legitimate point and a correct point. We cannot amend the Human Rights Code here. We do not have that before us. We may have it submitted to us at this time, but I have been around this place quite a long time and I know how it works. If a bill is going to be amended, the first it can be introduced will be in April.

Mr. Chairman: Mr. Swart, as I understand it, your concern is that the draft classification that has been put before us does not reflect that issue, and you are looking to amend Bill 2 substantively to provide, in addition to "sex discrimination," the word "disability."

Mr. Swart: That is right.

Mr. Chairman: You are certainly at liberty to bring in any amendment you wish, and we will deal with the amendment and perhaps address it at that point.

With reference to the question of it being in the classification, those hearings are going to be held. I recognize that in the brief, Mr. Beatty or whoever wrote the brief indicated they might have difficulty in responding at that point, but if the Human Rights Code was amended at that point, that would certainly be a legitimate argument at the classification hearings in terms of having it classified, to look after the question of disability.

Mr. Swart: Of course, I am all for amending the Human Rights Code. I just want to point out that we are not going to amend it tomorrow. It will not be amended before April. We know how bills go around this Legislature. You have been here for some time. If you have an urgent bill, it sometimes takes a year or two.

I suggest there is nothing to prevent classification being written into Bill 2, and we take that first step, if we do write it, because it will likely be dealt with in February. I think my argument is very, very valid.

If there was a bill now before the Legislature to amend the Human Rights Code, we could deal with it in February and then we could do that very quickly. I say we should do it both ways.

Mr. J. B. Nixon: Can I just remind you--

Mr. Cureatz: Mr. Chairman, on a point of order: I think we could have this discussion among ourselves after the witnesses have concluded.

Mr. Swart: I would agree, but I point out the discussion took place because of the interjection of the parliamentary assistant while I was making a comment.

Mr. Cureatz: Mr. Chairman, let us get on with the witnesses.

Mr. Chairman: Yes. I think that is appropriate.

Mr. J. B. Nixon: All the interjections come from a single source.

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Mr. Chairman: Do you have further questions of the delegation, Mr. Swart?

Mr. Swart: Yes, I do. Because we do not have the Osborne report, although it was required to be tabled by November 1, 1987, according to the terms of reference, we are not dealing to any great extent with the question of no-fault and compensation. But I would like to ask, what is the figure you would think should be the limit--or should there be no limit--on the rehabilitation cost?

You probably know that Manitoba has raised its now to \$100,000. Is that level adequate, or would you be suggesting a figure higher than that with regard to rehabilitation?

Mr. Beatty: Taking rehabilitation to include long-term care, if you look at what can happen if a young person, 15 or 16, or even younger, is going to acquire lifetime, long-term care, it would be our submission that there be no limit.

It is interesting that the Insurance Bureau of Canada's submission to Mr. Justice Osborne suggested no limit except for \$200,000 for long-term care. But it is precisely in the long-term care situation that we would see the need. Certainly there is a cost. Some jurisdictions, such as Michigan, have gone that way, however. I guess our perspective is that it is in those cases the system should be set up to compensate them.

Mr. Swart: Could you tell us what the limit is in Quebec, or do they have a limit there under this where they have the most expensive no-fault system probably in North America?

Mr. Beatty: I only know a little bit about the Quebec system. I had a chance to meet briefly with officials of the *régie*, but only briefly. It is completely different. They have set up rehabilitation centres. It is my understanding that to some extent the rehabilitation is provided kind of directly rather than by making an award to purchase it. But beyond that I do not think I can help. I do not think it is a comparable system.

Mr. Swart: No, it is not comparable, but we are not exactly sure of what the system may be here yet, certainly with regard to no-fault.

I have one final question, and this comes back to what I was raising before. Given the fact that in the Human Rights Code at the present time we do not have any antidiscrimination on insurance with regard to disability or any other thing, would you like to see it put in this bill, at least on an interim basis, until we get it in the Human Rights Code?

Mr. Beatty: I understand the legal reasoning that Mr. J. B. Nixon put forward. I think that essentially our position is the two should go through the Legislature together. But in any event, it should be handled in such a way that the law is clearly in place, and the remedy is clearly in place, before the system is set up.

Mr. McGuinty: I would like to return to the point that Mr. Cureatz raised, because I think it gets to the heart of the matter. It has to do with the reluctance of the insurance companies generally to insure the disabled.

The incident that Mr. Beatty outlined in the early example of 10, I accept that. I think it is probably a very good indication of the status of the state of affairs.

We can ask the insurance companies what their policy is here, and indeed the brokers, but I think we can anticipate the responses because the insurance companies generally are concerned with entire populations and statistics within those populations. When you get to the population of the disabled, you get to a group in which there is a variable of the kind that Mr. Kunc enumerated.

My question is this: It is unlikely that we could compel the insurance companies to set aside their current practices. Within your organization, the Advocacy Resource Centre for the Handicapped, which is made up of a significant number of other minor organizations, do you have the facilities to draw together the kind of information upon which the insurance companies could make their judgements regarding insuring the disabled?

That is one question. Second, would it be feasible, if there is a national Canadian association of the disabled, or even a provincial one, to have an insurance body set up as an adjunct to that association? This morning we had an automobile association subsidiary here in the insurance business, insuring the members of that association.

My two questions are: Would you have the resources to draw together the information that I think the insurance companies on their own would be reluctant to do because they do not have the kind of social consciousness that I hope they would have, and would it be feasible to have an autonomous insurance company established, dealing specifically with the disabled?

Mr. Santos: Even though ARCH is a coalition or represents 35 different agencies and consumer groups, we probably would not have and would not want to really take on trying to bring together that kind of information.

As far as I am concerned, we are really very interested in having the insurance companies serve everybody as individuals. I know there are different agencies or different organizations that do benefit members because of their buying power and trying to cover or serve their own members, but I think it would be very hard and very difficult to have an insurance company.

Really, we are interested in just seeing that people get a fair shake. Not dealing with insurance for driving, I have gone through various life insurance companies in trying to get life insurance and this kind of thing. My basic reaction is, if somebody is trying to charge me double or charge me extra, I just walk away from them.

I do not think you can legislate that insurance companies are going to treat us fairly. I think what we want to do is try to set up a climate, as much as possible, where they will, and also get disabled people in positions where they will be able to shop around and try to force insurance companies to deal with them directly.

Mr. Beatty: I think it is basically our position that it has not been shown, and the insurance companies cannot show, that disabled people are a greater risk. I guess that implies that there is no need for a separate insurance, which I would take to be the intent of this bill as well, and the statement by the minister that disabled people are going to have the same opportunities in the marketplace that others do.

If we had to set up a separate system for disabled people in this area, why not in every area?

Mr. Kunc: If I could just add by introducing perhaps a theoretical concept which is used in the literature on disabilities. The concept is "spread," and "disabilities spread" refers to an individual perception where much larger inferences are made about a person's personality or intelligence because of a disability when in fact the disability is not related to those issues so, as it were, the disability gets bigger and bigger and spreads.

I believe this is an important thing that this committee should keep in mind. The idea that disabled people, as a category, are different in terms of their driving ability is, I believe, an example of unjustified spread of inferences. To illustrate this, if you had that, you would be saying that a 55-year old woman with cerebral palsy had the same degree of an accident as a 17-year-old guy with a Camaro who also has cerebral palsy. On grouping people in terms of disability, the disability is not as strong a factor as other factors, specific driving experience, etc. Watch out for that assumption that disabled people are different and have different abilities as a group.

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Mr. Chairman: I would like to thank you as well on behalf--I am sorry. Do you have something?

Mr. J. B. Nixon: I will not pre-empt the chairman and thank you for the presentation. I think point 3 in particular in your summary is valuable and should be useful to the ministry. Hopefully, no discrimination will occur in the future on the basis of disability, but none the less, if it does occur, it seems appropriate that the Facility Association is the vehicle to provide insurance at the regular cost. I am hoping that type of amendment can be made without an amendment to the Compulsory Automobile Insurance Act, but can be done within the scope of this bill. I do not know and will defer to the ministry advisers in that regard.

Second, in regard to the Osborne inquiry, we are very anxious to receive it, as you are. I suggest to you that as it deals with compensation, the quantum of compensation which we expect will change will affect the value or the quantity of the claims experience in any risk group. The board, as proposed, will have the power now to change the classification system based upon the experience of any risk group within that classification system.

We do not anticipate a problem if Osborne's report is implemented after the establishment of the rate review board, because the board will have that organic creative power to change the class system, depending on the claims experience, which depends on the compensation payout. I just want to leave that thought with you. It is our belief that we can proceed with the board and integrate Osborne's recommendations into it or into its process once we receive them.

Mr. Beatty: If I could just respond very briefly, certainly we hope that will be the case but, nevertheless, if the classification system is in place, in a sense some decisions have been made. Suppose, for example, Osborne recommends, and it is done, that no-fault benefits along the current model be substantially increased and suppose that we now insure, to take the Insurance Bureau of Canada's figure again, at \$600 a week rather than \$140.

That has the implication that if you take two drivers, one of whom is working and one of whom is not, one of them is getting income protection of \$600 a week and the other, who may be unemployed, is getting nothing and may lead to a further argument that maybe that is an additional risk and should be reflected in the classification scheme. If hearings are under way by the board and there is already a classification scheme in place that says that is not a factor, technically it can be reversed, but it may be hard to do.

Mr. J. B. Nixon: My only comment would be that discrimination is not applied now in any rating criteria even though we do have drivers who are employed and drivers who are unemployed. I guess it is a question of whether that would be sociably acceptable to apply in the future. In any event, the general sense is that Osborne's report will have at the very best an indirect impact on the rating classification rather than a direct impact.

We all hoped he would have reported a month ago. We expect him to report within a matter of weeks, which will be within the consultation period set for the classification system. So his report will be out in the public realm at the same time as the classification system will be. We hope you do respond directly to the report. I am sure you will.

Finally, just in passing, I would like to compliment you. I was a member of the law society's legal aid committee which made the initial decision to fund Advocacy Resource Centre for the Handicapped and I am just happy to see everything going so well. It is flourishing.

Mr. Beatty: Thank you, too.

Mr. Swart: While they are still here, I am going to ask the parliamentary assistant what the timetable would be for the amendment to the Human Rights Code, recognizing that it has to go through the House. You say you will table the amendment here tomorrow, but it cannot become law. We know the House will not be back again, after February, probably until April some time. That is the general consensus. Could you give us some indication here of the timing when that Human Rights Code amendment will be passed?

Mr. J. B. Nixon: I have not asked our lawyers for advice on that matter. I had always assumed it would be proceeded with expeditiously and did not anticipate that anyone would be raising obstacles to its passage in the House.

Mr. Swart: Nobody will, I am sure.

Mr. J. B. Nixon: You seem to be suggesting to me that we cannot deal with it in this committee. We want to proceed with it and I will have to take some advice.

Mr. Swart: We cannot pass it in this committee, you know that. It cannot become law in this committee.

Mr. Chairman: Let us not go into that.

Mr. Swart: I am trying to give some idea to them that it certainly will not even be tabled in the House until after April.

Mr. J. B. Nixon: Perhaps when we table it tomorrow in this committee, I can give you some detailed answers on that.

Mr. Chairman: I would like to thank you very much, as well, for a very sensitive brief and one that is always very informative. I have had the pleasure of being in a couple of committees where ARCH has come before us. The view that was emphasized by Mr. Kunc is very important, that disabled people are people who are capable of carrying on and functioning and do not wish to be recognized as being in a position where they cannot. Very often, your comments and your views serve to remind us of that on a daily basis and are very good. Thank you very much.

EMIDIO IOANNONI

Mr. Chairman: Our next presenter is Emidio Ioannoni. Would you like to come forward and identify yourself for the purposes of Hansard? We have, I believe, your written statement. Is that correct?

Mr. Ioannoni: Yes.

Mr. Chairman: I guess you have some idea of the rules. We usually sit until noon. We will sit a bit beyond that, obviously, because we have eaten into the half hour. You may present your written or oral argument and then leave time for questions from members of the committee.

Mr. Ioannoni: I am making my presentation and it is to the fault chart especially, to show that it is totally unfair.

We protest the injustice of the present insurance system in Ontario which frequently penalizes motorists involved in accidents, whether or not they are judged by the police to be at fault. We call on the Ontario government to establish a new plan tied to the demerit point system, so that only those guilty of bad driving suffer increased rates.

The current system of using the insurance fault chart is unfair and unreasonable at times. Only in Ontario are you found to be 75 per cent at fault in making a left-hand turn at an intersection. In any other province, the guy passing you is 100 per cent at fault and you are zero per cent at fault.

To me, a left-hand turn is not illegal. The insurers say it is illegal: you are not supposed to make it. That is stupidity. How are you going to get on to your left-hand streets?

No one should pass to the left of a vehicle when making or about to make a left-hand turn on a two-way street. This is in two-way traffic. People passing without safety should be charged with careless driving. This would be the total fault of the person passing, the passing vehicle, and not of the driver making a proper left-hand turn. There should be no passing allowed in the city unless it can be done with safety, because all these things here have to go hand in hand with the Ministry of the Attorney General and the people who make up the rules of the road, the Ministry of Transportation.

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Those lines on the road indicate something, yes or no. If you are driving down the road and see a solid line, that means you cannot pass. It even states it in your driver's handbook. A divided line means you can pass in safety only, and a double line indicates that no passing is allowed. That is on a highway. No passing is allowed at all.

Insurance companies should not find a 50-50 or a 75-25 fault. It happened to me. I was in an accident. The police report found the other person at fault. He was not charged, but in the police report it stated, "Improper passing." I went through hell for a whole year until I could get it resolved with my insurance company. That is not fair to me. Ask anybody out there who has to go through hell with his insurance company.

I finally beat them because the police report stated "Improper passing" on the other person, but my insurance adjusters did not care. They hung up the phone on me. They said: "We go by the fault chart and that is it. The question is closed; that is it." To me, that fault chart is worth nothing at all. If you go by that, it is not fair to the safe driver. Why should one pass on the left? You are supposed to show respect to the driver in front. If he has his signal light on and someone passes, that is showing disrespect. You are supposed to slow down.

If I go down to Toronto and ask anybody the question, "If a person is making a left-hand turn, his signal light is on and you are right behind the person who is making a left-hand turn, should you pass?" the person behind who is driving will say: "No, I will not pass him. I will wait. If there is room to the right, I will pass on the right, or else I will have to wait so the person can make his turn." That is showing respect.

So far, I have gathered 800 signatures in Welland showing that people are interested in having this fault chart abolished. There is also a thing on your driveway--

Mr. Chairman: I do not want to interrupt you, but you have seen Bill 2, I gather.

Mr. Ioannoni: No, I have not.

OK. Section 5 of this fault chart is, to me, totally worthless. To make a turn into your driveway, I have a hell of a time going into my own driveway, even with a solid line. Do you believe that? People pass me on the left. You know, that is not fair. Then the police officer is going to come around and he is going to say: "Oh, we go by the Ontario Highway Traffic Act. This is

section 121 of the act." What I want to see is the Ontario Highway Traffic Act and also the insurance companies get together, and the Attorney General, to revise some of those acts to make them more specific, because there are loopholes that lawyers just love getting into. If I were a lawyer, I would do that too, because you are getting paid.

Mr. Chairman: I am reluctant--

Mr. Ioannoni: You are getting paid.

Interjection.

Mr. Ioannoni: OK. Another thing also, this is a good fight I have got going with the insurance company. Great.

The thing is, why should I have to hire a lawyer and pay him \$500 to defend me when I am right? That is stupidity. I know some people personally who went through this hell. They had to go to court and they had to get a lawyer to fight it. Why should they have to go through all that hell? They have to lose \$400 to prove they are not at fault when it is the responsibility of the insurance company to do that.

Mr. Chairman: Could I just interrupt you for one second?

Mr. Ioannoni: OK.

Mr. Chairman: I just want to canvass whether there are going to be any questions from members of the committee. If there are not going to be any, then we would give you the full time to present further argument, if you wish.

Mr. Ioannoni: You can ask me questions right now.

Mr. Chairman: No, no, let me just inquire if there are going to be any questions from members of the committee.

Mr. Ioannoni: OK. Fire away.

Mr. Chairman: You are going to have a question, Mr. Swart, are you?

Mr. Swart: I have a comment.

Mr. Chairman: OK, and Mr. McGuinty. There are going to be two questions, so we want to leave a little time for those questions. Just continue on, and then we will try to leave it within the framework of, say, 12:05.

Mr. Ioannoni: OK, because I am hungry too.

Mr. Chairman: Oh, good. Go ahead. Do you have anything further to add, or are you ready for questions now?

Mr. Ioannoni: I am ready for questions.

Mr. Chairman: All right. Mr. Swart?

Mr. Swart: I just should point out that Mr. Ioannoni went ahead on his own. He lives in Welland. He was so annoyed when it happened to him, and I suspect rightly so, that he went ahead on his own, took a petition and brought

it into my office with some 700 names. When I called him back, he said, "I ought to take this to Queen's Park." I said, "Well, there is an opportunity here to hear what is happening out there in the real world."

The injustice is really that the insurance company would not accept the police report, which said the other person was at fault, and assessed him at a substantially higher rate. You did not say how much they proposed to increase them by.

Mr. Ioannoni: Yes. They put my rates up.

Mr. Swart: How much?

Mr. Ioannoni: By 10 per cent, 15 per cent.

Mr. Swart: It was 10 or 15 per cent, not a lot, but in one accident when he was not at fault at all. It is an indication of the insurance companies. Over and over again, we have this brought to us in our hearings that we have where they refuse to accept the reports of the police. They make their own determination whether this person is at fault or not.

Of course, if we enforce this, what is going to be done is that rates, under classification--we do not know yet, but as we anticipate--will be based on events, which would eliminate this kind of thing. I said the committee would hear this when he wanted to come.

Mr. McGuinty: My question would be--perhaps Mr. Swart could comment on this as well, briefly--what particular clauses of Bill 2 do you think would be most relevant to alleviate the kind of problem that you are relating here?

Mr. Ioannoni: I do not know anything about the bill. I am here just to tell about this. I have never read the bill.

Mr. Chairman: He is here to place before us, as Mr. Swart told us, the injustice in terms of--

Mr. Ioannoni: I am here to fight this to the finish, and that is it. If I need any extra support, I will just declare an all-Ontario petition, that is all. I will go out on the streets of Toronto and start, I will get the Star Probe here in Toronto to go on to it and then to ask the people on the streets what they feel. It is the people who are supposed to be there saying: "Yes, that's right; that's wrong," not the insurance companies.

Mr. Chairman: We appreciate your actually bringing forward the information. Mr. Nixon may have a few comments, but certainly that information is important. I think Mr. Swart was wise in telling you to come before us. It gives you an opportunity to let us see it. I never realized that there were extracts in the book like that, but we now know there are.

Mr. Ioannoni: There are. For example, you are going to make a turn into your driveway--

Mr. Chairman: Can I just interrupt? Mr. Nixon wanted to ask two questions or make two comments. He is the gentleman to my left here.

Mr. J. B. Nixon: The question I have is, are you aware of a system that would be better? Do you have a recommendation as to how disputes might be resolved?

Mr. Ioannoni: The only thing I could resolve is that in the streets there should be no passing unless you do it in safety, because you cause an accident, bang, well, that is it.

Mr. J. B. Nixon: So what you are suggesting is that anyone who passes on the left and is involved in an accident should--

Mr. Ioannoni: Right, he should be at fault; that is it.

Mr. J. B. Nixon: One hundred per cent.

Mr. Ioannoni: Yes, 100 per cent, no question about it.

Mr. J. B. Nixon: And he should face a surcharge on his automobile insurance premium.

Mr. Ioannoni: Right.

Mr. J. B. Nixon: That is the recommendation.

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Mr. Ioannoni: Right, because how would you be able to see the guy behind you? OK, you have the rear-view mirror, so you are looking in the mirror; but as soon as you take your eyes off that mirror for a split second, and the guy is behind you, you figure, "He is going to stop behind me." All of a sudden, he looks at his watch and says: "Damn it, I have to go to work. I'm five minutes late." So he probably goes around you. He boots around you. You turn. Bang, an accident occurs.

On the highway that is a little different. But where most of the accidents do happen, the majority of them, is in the city, because everybody is in a hurry to get to work and they cut each other off. I am saying the person behind should be more responsible because he gets the whole view, the whole picture, of what is going on in front of him.

That is showing disresepct to the other driver. The guy has his signal light on. It is not fair. The insurance should back off on that and eliminate that section 5 completely.

Mr. Chairman: We appreciate that information and certainly it will be of some importance to us as we consider the bill here. We appreciate your coming. Did you come all the way from Welland?

Mr. Ioannoni: Yes, I came over from Welland.

Mr. Chairman: We appreciate that very much. It is very kind of you to come.

Mr. Ioannoni: As I said, it is the people's opinion. It is their opinion that counts. I could ask any one of you, how would you drive? OK, I will ask you a question. Do you wait for the guy in front of you to make his left-hand turn?

Mr. Chairman: I do not--

Mr. Ioannoni: Okay. Oh, so you do not?

Mr. Chairman: I would hesitate to hold myself up as an example of a good driver.

Mr. Ioannoni: So you pass, OK? I got you. So you are always in a hurry?

Mr. Chairman: I think we could probably get into this further and you could ask each member of the committee and you would probably get a different answer.

Mr. Ioannoni: Yes, but I would like to see that resolved.

Mr. Chairman: Perhaps you would like to leave that information. You have left your chart with us and the information and we will certainly take that into consideration.

Mr. Ioannoni: There is also another thing on this fault chart--it is really stupid--which I never pointed out in the petition. This is the most important thing to me.

I will pass this around. Section 7 here goes: cars coming at an intersection. The right of way is the guy on the right. There are no stop lights, no stop signs, nothing. An accident occurs. So far I have not seen a street like that in Ontario, where there are no stop signs, in section 7 here. I will pass that around. Give that to him.

Mr. Chairman: With reference to your petition, I would presume you have already given that to Mr. Swart and he can, if he chooses, file that in the Legislature as a petition in an appropriate form.

Mr. Ioannoni: And I am going to get more signatures.

Mr. Chairman: That is something perhaps that should be done. I am sure Mr. Swart will tell you how it is done, in presenting it in the Legislature to the Lieutenant Governor.

Mr. Ioannoni: Another thing is that even if the guy was charged by the police, do you know what the insurance told me? They told me: "So what about the charges? You are making a left hand turn. You are not supposed to make one." What rights do they have to tell me what to do and what not to do?

Mr. Chairman: The determination at the trial under the Highway Traffic Act does not necessarily, nor should it, bind what happens subsequently in terms of the property damage settlement.

Mr. Ioannoni: I will tell you what. I told the insurance company also that this guy passed me on a solid line. To show you how stupid the insurance companies are--well, it is not the insurance companies that are at fault. It is the Insurance Bureau of Canada. It is really stupid.

The thing is that when my accident occurred, it was a solid line. I did not even make it over the solid line. I got hit on my side. Also, there was a railway crossing there. Subsection 128(b) of the Highway Traffic Act says that no one can pass between those 30 metres either way of the railway tracks. When I told that to my insurance, they said, "No, we are still going by the IBC fault chart. So what?" I got mad so many times. I told them off. There were girls in there. If it had been a guy I would have gone there and smacked him in the head a couple of times.

Mr. Chairman: You are being broadcast throughout Ontario. I do not know--

Mr. Ioannoni: Well, I should. I would like to take the challenge with the reporters right now.

Mr. Chairman: We thank you very much. As we indicated at the outset, there are certain time constraints. We appreciate your facts and the questions from members of the committee.

The committee recessed at 11:55 a.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ONTARIO AUTOMOBILE INSURANCE BOARD ACT

WEDNESDAY, JANUARY 13, 1988

Afternoon Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Farnan, Michael (Cambridge NDP)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Charlton, Brian A. (Hamilton Mountain NDP) for Mr. Hampton

McGuinty, Dalton J. (Ottawa South L) for Mr. Chiarelli

Runciman, Robert W. (Leeds-Grenville PC) for Mr. Sterling

Clerk: Mellor, Lynn

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Financial Institutions:

Nixon, J. Bradford, Parliamentary Assistant to the Minister of Financial
Institutions (York Mills L)

From the Metro Toronto Taxi Drivers Association:

Shields, Robert, President

Etto, James, Treasurer

Elliott, Ted, Public Relations

Clachar, Leon, Secretary

From the Insurers' Advisory Organization Inc.:

McCormick, Robert J., Chairman

Chellew, Gordon A., President and Chief Executive Officer

From Progressive Corp.:

Rogacki, Andrew, General Manager and Chief Agent for Canada, Progressive
Casualty Insurance Co.

Brown, Harry P., Legal Counsel; with Lyons, Goodman, Iacono, Smith and Berkow

From the Metropolitan Licensing Commission:

Ruddell-Foster, Carol, General Manager

Van Veen, L. Roy, Administrative Officer

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, January 13, 1988

The committee resumed at 2:05 p.m. in room 151.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT
(continued)

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

Mr. Chairman: I recognize a quorum. Pursuant to our agreement earlier that we could proceed without necessarily having a member from each party, we will proceed.

Before we proceed, there was a request by members of the committee for the information that was available to the government on the bonus-malus principle. I understand from the parliamentary assistant that there is so much material that we would need a truck to bring it over here. Maybe that is too much hyperbole.

What I am looking for is some direction from the committee to the research people as to what jurisdictions they might wish, to try to narrow this down a bit. Then the research staff could go through it and eventually, for our assistance, prepare a précis on one jurisdiction or a couple, rather than going to Budget Rent-A-Truck and all of us spending the weekend here to plough through the material.

Mr. J. B. Nixon: Can I just add another comment? There are many systems that do use some form of a bonus-malus system. By way of example, I just received a copy of the study that the Insurance Bureau of Canada did on a number of European jurisdictions and I have left that with the research officer. But keep in mind that it is in widespread use in many jurisdictions, certainly not nearly all or a majority, but many in different shapes and forms.

Mr. Farnan: I think we would want to have a look at British Columbia, which was mentioned specifically yesterday by the delegation that appeared before us. Certainly that should be one that we look at.

Mr. Chairman: It seems as though nobody is nodding his head against that, so we agree with that, I gather.

Ms. Hart: Is there a jurisdiction with a pure bonus-malus system? I recall that distinction being made when we were discussing it. I do not know how valid the distinction is, because I do not know enough about it.

Mr. J. B. Nixon: My understanding, and I stand to be corrected, is that the closest to a pure bonus-malus system is Switzerland.

Mr. Chairman: Nobody is going to suggest we travel there, is he?

Ms. Hart: I would not be so quick. Perhaps I could follow that up. Does the report that you just received, studying various European jurisdictions, include Switzerland?

Mr. J. B. Nixon: I do not know.

Mr. Chairman: Perhaps just to shorten this a bit, if in fact that is one of the jurisdictions that you believe has a pure system, maybe that could be the second one you look at, if there is any information available by mail.

Ms. Hart: I am not trying to make work for the research assistant particularly. It is just that since we heard that distinction, I thought we might have a somewhat closer look at that jurisdiction.

Mr. Chairman: She has direction that it is either Switzerland or some area that she can find where it is a pure system.

Mr. Keyes: I am just suggesting that yesterday we seemed to get, I thought, probably an adequate summary of the B.C. system of bonus-malus in the submission by the Consumers' Association of Canada. That might be adequate. In the other representations that are going to be made to us by Saskatchewan, I believe a call to them might make sure that it is part of the presentation or that it is made available at that time. The other one that has been so much touted would be Manitoba, and I do not think we are having it represented at all.

Mr. Chairman: Perhaps we could leave that to our researcher. She can determine that.

Mr. Keyes: She can determine whether it is going to be part of that submission and get it through there.

Mr. Kanter: We are at a bit of a disadvantage, because there is a lot of information and we do not know specifically what it relates to. But I think our interest generally would be in one or two examples of the pure form of the bonus-malus system--B.C. and Switzerland sound appropriate--and it would be possible to have one or two examples of other modified bonus-malus systems.

As I understand it, the proposal before us, for example, contains a component or an element of the bonus-malus system. I am wondering if the research person--I am sorry, I have forgotten your name.

Ms. Swift: Susan.

Mr. Kanter: Susan could provide, as well as the more pure forms, some information about one or two other mixed or hybrid systems.

I do not know what they might be. I take it there are a number of states and provinces, and perhaps European countries as well, that have that sort of system. I guess I would leave it to your initiative to suggest a couple.

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The only other thing that might be useful: Would it be possible to compile a list of the documents you have, if there is a whole bunch of documents? Could you do a brief report about three or four systems and then just list the various documents you have as part of your report? Is even that too extensive?

Ms. Swift: What I would suggest is that I look at these. If there is a voluminous amount, that might not be possible. I could report back to you. I

will be looking through the material on Friday, so I can report back to you exactly what is there, if that is useful.

Mr. Chairman: Remembering that the time we have is very brief. We want to get some information on that, but we do not want to just put everything else aside.

Mr. Kanter: I agree with that. I think the most useful thing would be one or two examples of the more pure system and one or two examples of the mixed or hybrid or modified system using, but not relying exclusively on, the bonus-malus system.

Ms. Poole: I was going to suggest something very similar to Mr. Kanter, but could we have one of the states that has a size comparison to Ontario in the number of vehicles and type of system we are proposing? If there is a state that approximates that, perhaps that would be a suggestion.

Mr. Chairman: Is that sufficient direction and narrow enough that you will not be spending your weekends for the next three weeks doing this?

Ms. Swift: Yes.

Mr. Chairman: OK. Perhaps we could get on, then. We have a fairly lengthy number of presenters. We have the Metro Toronto Taxi Drivers Association. Is Robert Shields present? Mr. Shields, would you like to come forward? Are you alone or do you have others with you?

Mr. Shields: I have some other members with me.

Mr. Chairman: Are they going to be involved in the presentation?

Mr. Shields: Yes.

Mr. Chairman: Just have a seat first, if you would. If there are other people you wish to bring forward who might be involved in the presentation, you bring them forward now and identify each one of them as well as yourself for purposes of Hansard. Then whoever is going to make the presentation can make it, and we will try to provide some time for members to ask questions.

I indicate at the outset to all assembled that we have four delegations and we have slated half an hour for each. We are flexible, just so you understand that, but we hope the presentations will be about 15 minutes long and the questioning from members of the committee might be the same.

METRO TORONTO TAXI DRIVERS ASSOCIATION

Mr. Shields: I am Robert Shields, president of the Metro Toronto Taxi Drivers Association. I have with me James Etto, the secretary, Ted Elliott, who is in charge of public relations, and Leon Clachar, the secretary.

We welcome this opportunity to address the committee with our views on Bill 2. In the taxi industry, insurance has now become the major operating cost for taxi operators in Metro Toronto. Massive increases in insurance costs have caused serious problems to many in the taxi industry. The rising premiums are paid directly by taxi owners, but these costs are passed on to the taxi drivers, as are all costs in the industry. Drivers, after all, generate all the income in the taxi industry and indirectly pay all the expenses.

Average insurance rates for taxi fleets in Toronto are currently about \$6,000 annually per cab. Also, an increasing percentage of Toronto's cabs are compelled to obtain coverage from the Facility Association. Rates in the Facility Association are considerably higher, ranging from a low of \$8,600 per year to \$15,000.

All applicants for taxi insurance are consigned to Facility by auto insurers in Ontario, with the exception of two companies. This is done without due regard for the past claims record of the individual applicants, which may be safe and claims-free. Bill 2 does nothing to rectify this situation.

The taxi industry and the insurance industry both provide a service to the public. Taxi companies operate under government regulation, but must depend on the insurance industry in order to stay in operation. The insurance industry functions under government regulations as well, but has been reluctant to provide service to taxi operators. Some of these cab owners, after a lifelong commitment to the taxi business, with no pensions or other benefits, have been driven out of business by high insurance rates.

Bill 2 is the government's response to the widely publicized insurance crisis in Ontario; but far from controlling or reducing high rates, the bill will permit further rate increases on the flimsiest of pretexts. In subsection 21(5) the bill states that, "the board may approve the increase if the insurer demonstrates that, (a) the circumstances of the insurer justify the increase." Therefore, if a company is inefficient, poorly managed, incompetent or losing money for any reason, it will be allowed to charge higher rates. The Treasurer (Mr. R. F. Nixon) has stated that he does not want to "drive any insurers out of business," and apparently he is willing to let them charge whatever they need in order to be profitable.

Bill 2 provides for increases above the so-called capped rates. In subsection 21(7), "an insurer may increase its capped rates by an amount that does not exceed the prescribed percentage." According to subsection 21(1): "Unless otherwise permitted under this act, no insurer shall...(b) charge any rate other than...(ii) a rate that may be charged under the plan of operation of the Facility Association." The bill proposes a 10 per cent reduction in taxi insurance carried by the Facility Association. However, in section 24 it provides for increases in the Facility rate upon application for an increase by the Facility Association.

Bill 2, in our view, is beneficial to the private insurance companies and to their high-risk agency, the Facility Association. It does little for the public or for the taxi industry in particular. Insurance rates will continue to climb with the approval of the insurance review board. The private insurance companies will be assured of their right to derive large profits at the expense of motorists in Ontario, including taxi drivers.

Perhaps the time has come for drivers to give serious consideration to a publicly funded, government-run auto insurance plan such as those operating in Manitoba, Saskatchewan and British Columbia, and perhaps the time has come for the government to give serious consideration to this.

We make the following recommendations:

1. That Bill 2 must require all automobile insurance companies to participate in the voluntary insurance market for taxicabs and not only in the Facility Association.

2. That a body be set up to gather data on the taxi industry for the Ontario Automobile Insurance Board.

3. That auto insurance companies be involved in the intermarket risk management efforts of the taxi industry. We would also like to see some cab drivers involved in this.

4. That it be made illegal for taxis to be assigned to the higher Facility rate without due consideration of the driving skills and claims-free records of drivers. At this point we feel that we are being used and that they are using the abstracts to work against the cab drivers.

5. That a public complaints commission be set up, using people from the industry and the taxi drivers.

6. That auto insurance companies and the Facility Association be required to consider taxi drivers' policies independently from those of their families.

Mr. Chairman: Just before you start your brief, Mr. Shields, I just want to enquire whether or not there was a page 2, whether or not something was left out. I do not know whether it was left out as a typo or what, but you had, "the board may approve the increase if the insurer demonstrates that, (a) the circumstances of the insurer justify the increase." I do not know whether you had intended to put (b) in there, which is the second part, "the resulting rate is just and reasonable and not excessive." Is that to be in there, or was it left out?

Mr. Shields: It is just taken from the bill.

Mr. Chairman: All right, I just want to be sure it was not a typo.

1420

Mr. Keyes: Looking at the presentation and the taxi industry, I gather that those taxi drivers you represent are opposed to Bill 2. We have had insurance brokers on behalf of the taxi industry strongly supporting Bill 2. It is rather interesting to find that those of you who drive a cab--and as I said earlier, I used to be a cab driver myself and very much support the actions of the taxi industry as a whole--I think they serve our public well, but it has been primarily the insurance factor that has been one of the most difficult aspects you have had to contend with recently.

I seem to sense that the brief more or less denigrates Bill 2 and says what is wrong about it, but it does not go too far towards making suggestions on how it can be amended. I think we have to realize that, in the context of realities today, the government has given first reading to Bill 2. These hearings will help us provide meaningful amendments to it, but the practicality of your suggestion that drivers and then, as you verbally said, the government should be going to the public type of government-run insurance just is not going to happen.

I would hope that your members, even those here today, could address a bit more succinctly some of the areas where you feel we could improve the act if it is not going to meet your needs. If we are to suggest that you feel we are going to provide an opportunity for simply the increase of rates, we are quite convinced from the presentation that has been made to us by staff that rates for the general public are going to be significantly reduced. A great

deal of it will hinge on the record of the people who are driving. The better the record, the better the rate.

Would you agree that for taxi drivers themselves, the majority of the determination of their rate should be dependent upon their ability to drive accident-free? I have a sense that you are suggesting that in your recommendation portion.

Perhaps you may be able to give a little more insight as to where you feel amendments could be made within the bill that would help to allay some of the fears. There are one or two good suggestions that you have put in the recommendations and some that do not appear on the surface to me to be quite as practical.

On the third recommendation, I would like just a further clarification. I think I know what is involved here when you say that the insurance companies should be involved in the intermarket risk management efforts of the taxi industry. I would appreciate just a little fuller explanation. I assume you are referring to trying to run campaigns within the taxi industry for better driving, and maybe some incentives by companies for a recognition of those who get through a year accident-free and put \$50,000 on their vehicle or whatever, that there be some incentives.

These are rather wide-ranging opinions, but maybe you can help in the course of your afternoon's presentation to address them.

Mr. Elliott: Could I just comment on your last point about the risk management efforts? We understand from the brokers' association that it has tried over the past year, at least, to work with the insurance industry on improving driving habits and eliminating the bad risks in the industry, but it does not seem to get much co-operation from the insurance industry. That is really what we are suggesting: that the insurance industry should be making an equal effort with the taxi industry in order to solve the problem. We perceive that the efforts to solution are coming from the taxi industry but not really from the insurance industry.

Mr. Keyes: Yesterday we had probably the good aspects of these hearings. People from the Insurance Bureau of Canada yesterday informed the brokers that they would be happy to meet with them and try to work in that regard.

Mr. Chairman: You see? We have already had a positive effect on this entire process.

Mr. Shields: If the brokers are coming across to you as if they are satisfied--

Mr. Keyes: I did not say satisfied, I said more in support.

Mr. Shields: They agree a lot with the bill.

Mr. Keyes: They have some support for the general concept and thrust of the bill, whereas I gather your association does not show literally any support for the bill.

Mr. Shields: What we do not support is the increases, because we are the ones who pay them. This is our problem. We are paying for the increase. We pay everything.

Mr. Farnan: I think, and the record should show, that the presentation we heard from the taxicab brokerage yesterday was not so far out of line with what we have heard today, in the sense that I asked the question specifically, what if there was a reduction? I forget what the percentage was; I think it was 13 per cent or 15 per cent. Very little in the industry's relationship with the taxicab industry was to be affected. Other than that change, would they be satisfied? Very emphatically they said no, they wanted significant changes.

What I hear the drivers saying reinforces that. They do not want the status quo. I am sure they will not say no to a small decrease in fees, but I think what they are saying is that there need to be significant and fundamental changes in the effects this bill will have if it is going to benefit them in any meaningful way.

There were areas where the taxicab brokers were certainly supportive; I agree with Mr. Keyes on that. But I do not think their statement fundamentally was different from what we are hearing from the taxi drivers in their brief before us today.

Mr. Elliott: If I could interject here for a moment and maybe present a bit of an analogy that we talked about when we were together, we think that the taxi industry, in relation to insurance, has a serious problem. If you like, think of it as a disease, a disease that is a problem. If we think of the taxi industry as the patient, the Legislature is the doctor and the insurance companies are the nurse. The solution proposed here in Bill 2 guarantees that the nurse will not get sick, but the patient may die. The bill does not address the problem. It takes care of the interests of the insurance industry. It does not solve the problem faced by motorists who require insurance. That is the way we read it, so I do not know how we can recommend anything about this bill except that it be totally revised. You cannot Band-Aid this thing very well. It is a serious problem. It needs surgery. It does not need an Aspirin.

Mr. Chairman: You may make the Star--I think it is--quote of the week. One of those newspapers has the quote of the week. I think you may have just made it. They are probably watching it up there, and no doubt they will put you down for a runner-up category, anyway.

Mr. Kanter: Mr. Shields, obviously you feel you have been badly dealt with by the industry through the Facility Association.

Mr. Shields: Yes.

Mr. Kanter: I am just wondering if you are aware that the rates charged by the Facility Association under this bill, unlike the past, would be controlled by this board and would have to be just and reasonable, not excessive, and adequate. Are you aware that there would be a substantial change and the insurance industry would no longer have carte blanche to charge what they wanted?

Mr. Shields: Yes, I think we are aware of it.

Mr. Etto: Yes, we are aware of that. If you really go through the bill, it seems as if the Facility Association is exempted from the cap of the bill, because they cannot apply to charge above the capped rate, OK? We understand the bill to imply that the fleet owners may not benefit from this bill--those people who own them, no matter which cabs we drive for--because

these are the people who are dealing directly with the insurance companies. Most of us just drive for people. Since the fleet owners, those with more than five taxis, may not be covered under this bill--that is our understanding--we think we are not protected, because when they cannot negotiate with the insurance companies, that means they will have to pass this cost back to the drivers. Then we will keep on driving, making a lot of money and earning nothing. That is our understanding.

Mr. Kanter: I hear the concerns the deputant is raising, and he seems to be of the opinion that this bill may not apply to drivers of fleets. That is not my understanding of the impact of the bill. I understand there might be a difference in category. I am wondering if we might ask the parliamentary assistant to comment at some point on the deputant's understanding and, second, if we might ask the parliamentary assistant to comment on recommendations 1 and 4, that the bill should require or perhaps encourage automobile insurance companies to deal directly with cab drivers, that they be dealt with not solely through the Facility Association. Those are a couple of questions, my understanding of which I think the parliamentary assistant could help.

1430

Mr. Chairman: Maybe he should comment on those now. I do recall they were addressed during the discussion about the classification on the matter of fleet policies. Mr. Nixon, can you help us with those?

Mr. J. B.
The intention with the new classification system is to establish--perhaps staff can help me if I am incorrect, but I believe my understanding is correct--a new classification for driver-owned and operated cabs. The board will be setting specific rates for insurance policies obtained by operators of cabs who own those cabs.

In terms of fleets, I think fleets larger than 10 are exempt from the classification system because at that point, it is our understanding, just as with fleets of commercial truck operators, there is sufficient bargaining power to negotiate a fleet policy as opposed to an individual policy per cab.

On the second thing, with regard to risk management systems, it is quite true that the Toronto Taxicab Brokerage Association--which, for the record, in my opinion had quite a different position on Bill 2 than you gentlemen do--did come to the government to ask for assistance in discussions with the Insurance Bureau of Canada about how it might set up a risk management system, because it recognizes that part of the problem with high insurance costs lies with the drivers and owners. The response from the IBC has been disappointing, to say the least.

But I do not know how, in a piece of legislation, you say a trade association shall negotiate a risk management system with owners of taxicab fleets. If there is a way to do it, and we think it is good public policy, why not? But I do not know how you say that, because it is a voluntary trade association. I just put that before you. I do not know how to do it.

Mr. Chairman: Mr. Etto? I am sorry; were you finished, Mr. Kanter?

Mr. Etto: Yes, I did finish in that area but I have other points to add to that.

Mr. Chairman: Actually, I was addressing the member, but if you have something further to say, go right ahead.

Mr. Etto: We do not have a full understanding of how the classification system will be followed up, because at the moment what happens is that if I am insured under the Facility Association, my wife, son or daughter cannot be insured under the voluntary market. They all have to go through Facility simply because I am under Facility. That is the practice by the insurance companies, and it eventually affects our family because of our job.

Mr. Chairman: Mr. Nixon will comment on that and perhaps give you an answer.

Mr. J. B. Nixon: Your association makes a number of recommendations and I would like to address some of them, but I will just address this specific comment you are making. If I understand the situation correctly, it is a situation faced not only by taxicab drivers but by a number of people in the public who find that because one person in the house has a bad driving record and has lost his licence, when another person goes to apply for insurance, he is tarred with the same brush and has to pay the highest rates and end up in the Facility Association or something close to the Facility Association in terms of rates.

Members of the committee may remember the superintendent of insurance very briefly alluded to a number of amendments to the Insurance Act which will be coming forward in the so-called third bill this spring, to cure abuses in the marketplace, set up some consumer protection standards, business practice standards and expanded enforcement powers for the superintendent.

One of those amendments will deal with the so-called spouse-in-the-house rule to allow insurance companies to write separate policies and exclude a named driver from that policy so that your spouse, for instance, could get a better rate or the aggrieved spouse or child or parent who suffers now will get a better rate. It is a difficult legal drafting job, but the superintendent is working on it.

Mr. Etto: All right.

Mr. Chairman: Mr. Kanter, you were questioning.

Mr. Kanter: I think I have part of the answer to my question. Is it the case, as the deputant suggests, that drivers of fleets larger than 10 will not be covered by the act in terms of rate regulations?

Mr. J. B. Nixon: They and commercial trucking fleets of a certain size, auto rental fleets and so on, will be exempt from the rate classification.

Mr. Farnan: First of all, on the board we are talking about, what is the membership size that you have in mind?

Mr. Chairman: We do not know yet.

Mr. J. B. Nixon: The act does not specify a number, but the present contemplation is that there would be a full-time chairman, probably two vice-chairmen--I do not know whether they will be full-time or part-time--and then a number of part-time members.

Mr. Farnan: Are we talking 20?

Mr. J. B. Nixon: I can only guess, but I would expect less than that.

Mr. Farnan: Fine. The question I have--it was raised by the delegation and it was raised previously by other delegations--is about consumer representation on this board. I gather from the statement you made you feel it is important that there is some form of direct input.

Mr. Chairman: I do not want to interrupt you, but I do not think it was on this board that they were looking for representation. I think it was dealing with their recommendations. They can certainly speak for themselves, but it was that a body be set up to gather data on the taxi industry. They wanted representation on that, as I recall.

Mr. Farnan: Fine. I appreciate that. I will rephrase it a little. There was some concern from a previous delegation that the board may have, I do not know, more insurance-type representatives on that board and perhaps philosophically give direction to the board. I have forgotten the delegation that put this forward. We are saying that in order for the public to perceive that the board is fair, it would want to be guaranteed that there were consumer representatives on that board.

Mr. Shields: Now that you mention it, yes, we favour that. We think it would be good to have somebody from the consumer side, especially in the public service area, to participate in it, because it is essential for us to understand what is going on in this whole insurance industry. As you are aware, we, as cab drivers, have not really been directly involved with the insurance boards or insurance companies. We have just lain back and taken our penalties as they came along, but now it is starting to dig into our pockets, our families, our lives, our lifestyles, and we feel we could perhaps put a little more into what is required from the public side.

Mr. Chairman: Could Mr. Nixon just comment on that? It may be relevant.

Mr. Farnan: Surely.

Mr. J. B. Nixon: You may recall that when Mr. Kwinter was Minister of Consumer and Commercial Relations and he announced the April 23 initiatives, one of the announcements was that the composition of the board would include representatives from consumer groups and that he would consult with consumer groups and solicit their advice on the appropriate appointments to the board. I can assure you that is being done.

Mr. Farnan: I take the point and I am cognizant of that fact. What I wanted to do, as we went along with various delegations, is to reinforce the point that for many delegations this is significant. What is required is not token representation on the board but significant representation on the board. It is not satisfactory, for example, with 20 members, to have one or two representatives of consumers and 18 representatives of the insurance industry, etc. I think it is important, as we listen to the delegations, that, if necessary, this point be put to them. If it is indeed reinforced, perhaps then we as a committee will incorporate that in our recommendations.

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The only other point I have to ask--I am not too sure about this--even within a consumer group, do you feel that taxi drivers as a group would find fair representation? We heard, for example, the case put forward by the handicapped through ARCH, the Advocacy Resource Centre for the Handicapped, this morning. Indeed, they had a very specific area of concern. To some extent, although we recognize that it exists, very often consumers in general are not putting it into the centre of their proposal.

Do you feel that perhaps taxi drivers have a similar kind of situation? We know that we ultimately pay the price. I saw you went so far down the list as to the brokers passing on the price to you, and I expect you have to pass the price on to us.

I would think, for example, there is some justification for looking at the handicapped in terms of their presentation. Is there a need for taxis as a significant industry or trucking as a significant industry to have representation on this board? Can the board incorporate that kind of representation?

Mr. Shields: I believe it would be very important. As you very well know--and perhaps everybody in this room at one time or another has taken a cab--we have a lot of feedback from the consumer. We, on the other hand, are carriers of messages from the government or from wherever we may participate. Yes, I think it is very important that we participate in these things, and we can contribute a lot to the consumer.

Mr. Etto: In addition to that, you see, of course, currently cab drivers are just pushed to Facility without consideration of driving data. By having some members of the cab drivers on the board, we would make sure that the information they gather on taxi drivers is accurate information, that reflects what we are doing, not the assumption of what we are supposed to be doing.

The bill provides for the insurance industry in general to provide information for classification. I believe the information they will provide to you is that information which they think, at least at the moment, we fit into as a risky market for them. So we think if we are represented on the board by our members, our members will be able to understand our position and the risk might be considered in setting up the classification that includes us.

If I have driven a taxi for maybe 10 years--apparently I have two seatbelt convictions and a couple of speeding tickets, without claims to the insurance company--now I will be considered a very risky driver. But I do not think this should affect my ability or my privilege as a safe, experienced driver. By having a driver as a member of the board, we will be able to protect this aspect of our driving experience. That will be useful to us.

Mr. Chairman: I do not want to interrupt, but we are running behind.

Mr. Farnan: I would just like to clarify one point. I think we are talking in terms of members of the taxi industry being on the board. I think if it is possible, where there are large, significant blocks involved in the taxi industry, perhaps an individual member representing that interest group should be incorporated on the board and these would indeed provide a window into the workings of the board. It would make the workings of the board meaningful to all of the significant players within the insurance industry. I

think there has to be a perception of fairness, and this kind of approach would go a long way--I would ask the question to the delegation if this kind of--

Mr. Chairman: Well--

Mr. Farnan: I would appreciate it if you would allow the question, Mr. Chairman.

Mr. Chairman: If you are going to ask questions, we are going to get a response. It is unfair to the other groups that are appearing.

Mr. Farnan: I think the taxi industry is a significant industry and we should hear it out.

Mr. Chairman: All of them are significant industries. May I put this to you, clearly that is something that could be put as an amendment in clause-by-clause in the final week.

Mr. Farnan: I think it is important that the question be placed before this delegation.

Mr. Chairman: What is that question?

Mr. Farnan: The question is, is this approach something that you as an industry would endorse as something that is beneficial, that would give a perception of openness and fairness and something you would like to see happen in the recommendations of this committee?

Mr. Elliott: Very briefly, yes.

Mr. Chairman: Thank you.

Mr. Elliott: Our association is democratic. We think any representative from our association would represent the views of the association. Our decisions are arrived at democratically.

Mr. Chairman: Thank you for your answer to that. Mr. Farnan, I gather you were finished?

Mr. Farnan: Yes, I am, thank you.

Mr. Charlton: Very briefly, we are going to have a lot of discussion and presentation in this committee about the economics in the insurance industry and underwriting losses and profits and/or occasional losses even after investment income and those kinds of things.

Very briefly, based on what you have said in your presentation, could we get an idea from you about some of the economics, at least in Metro Toronto, for taxicab drivers?

You are a totally regulated industry in terms of what you can charge the general public; the licensing commission sets your meter rates for you. You are talking about an average annual cab insurance rate in Metro of \$6,000, with some ranging up considerably higher than that, but that is the average you have quoted here. What would an average insurance rate for a driver in your industry have to be in order to fit with the economics of the imposed revenue side you are faced with in your regulated industry?

Mr. Etto: I think the average should be \$1,500. That is what about 10 per cent of the cabs are paying. Those are the ones called independent cabs, which are not from the fleet owners. They pay \$1,500 a year, and that \$1,500 should be what we consider an average for cab drivers. But if a cab driver is considered very, very risky and could be kicked out of the industry, that is why we recommended intermarket risk management. Then this driver could be trained to be a safe driver, and \$1,500 should be an average with which we would be faced.

Mr. Charlton: For a good driver?

Mr. Etto: For a good driver.

Mr. Chairman: I wish to thank you very much for taking the time to come down and share your thoughts with the committee. We will consider those as well as we do all other presentations that come before us.

INSURERS' ADVISORY ORGANIZATION INC.

Mr. Chairman: The next delegation is the Insurers' Advisory Organization Inc. Is Gord Chellew here? Is Herbert J. Phillips here as well?

Mr. Chellew: No. He is, unfortunately, ill.

Mr. Chairman: All right. Is Mr. McCormick here?

Mr. McCormick: Right here, Mr. Chairman.

Mr. Chairman: Would you like to have a seat and identify yourselves for purposes of Hansard? We have distributed your written presentation. Recognizing the ground rules I laid down before and we have not observed very well, we will try to keep within the framework of that period or something pretty close to it.

Mr. McCormick: Thank you and good afternoon, ladies and gentlemen of the committee. My name is Bob McCormick. I am the chairman of the board of the Insurers' Advisory Organization Inc., commonly known as IAO. I have been elected by the members for a term which expires in June 1988. My functional duty is president and chief executive officer of Chateau Insurance Co., which is a Canadian insurance company with head office here in Toronto.

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Making the presentation for IAO today is Gord Chellew, the gentleman on my left, who is the president and chief executive officer of IAO. Gord is a veteran of the industry, having been president of an insurance company and for a time owning his own insurance brokerage, and now, as I say, running the Insurers' Advisory Organization. Unfortunately, Herb Phillips who is our senior vice-president, chief actuary and resident expert is ill today and is not able to attend with us.

Our presentation will take approximately 15 minutes and will be presented by Gord. Following that, I will make a brief summation.

Mr. Chellew: Ladies and gentlemen, thank you for allowing us to appear before you and present our views, the views of the Insurers' Advisory Organization, and to deal with this brief which we think is very important, being about Bill 2, the establishment of the Ontario Automobile Insurance Board and the various regulations that will follow.

The Insurers' Advisory Organization, IAO, is a nonprofit trade association providing rating, actuarial, engineering and loss control services to 113 general insurance companies Canada-wide.

Our comments today will deal with part II of the bill, Rate and Dividend Review. The other parts appear to be more administrative or pertain to enforcement and regulation, etc. The issue of rates, rate-making and classification plans, which are our major concern, are contained in part II.

The first comment we have is really a question: Why the need for a rate-setting board? In a situation of this type, the government takes away the right to price from those who risk investments in their business and gives it to the government. We think this is not only unfair but also violates one of the basic functions of the free enterprise system.

Mr. Chairman: I am sorry. I will just interrupt you for a second. We were handed a brief. You are obviously not reading from the brief.

Interjection.

Mr. Chairman: All right. That is what I wanted to find out.

Mr. McCormick: We skipped the executive summary; I am sorry.

Mr. Chelley: Am I free to continue now, sir?

Interjection.

Mr. Chelley: The establishment of a government automobile rate-setting board is an unnecessary and unwarranted intrusion into the property-casualty industry, in our opinion.

While we are strongly opposed to a government rate-setting board, we would welcome the introduction of a true rate review board. There are alternative ways in which rates can be regulated by government other than through setting the rates themselves. IAO is not against regulation. We are, however, strongly opposed to government setting prices for a product sold by free enterprise companies.

Briefly, there are two other commonly used ways in which regulation can be introduced and be workable.

Prior approval: In this situation, the rates to be used are first filed by a company or rating bureau and must obtain the approval of the regulator, whether it be a rate review board, superintendent of insurance or commission. This is currently the case in several provinces in Canada. Public hearings may or may not be held to review the submission.

The other commonly used way is called "file and use." In this situation, the company or rating bureau files proposed rates and after a specified time can use these rates unless, in the meantime, the regulator has raised an objection or inquiry. If there are objections, a hearing can be called.

As we have stated previously, IAO would welcome the establishment of a true rate review board working under either of the above alternatives. Certainly, as we have pointed out, there is no need, in our opinion, for a rate-setting board.

We are also very concerned with respect to the role IAO could perform under this proposed legislation. As we understand the bill, IAO would not be involved at the initial stage of the rate-setting process.

IAO was originally formed by a group of property-casualty insurance companies which recognized the need, among other things, for sound, professional actuarial advice. In actual practice, IAO actuarial staff analyse the combined premium and loss experience of its members and issue advisory rate levels based on this compilation. The exhibits distributed provide the details leading up to the advisory rates. Because of this, our members have professional information on loss development, frequency and claim cost trends, operating expense ratios, etc.

Since IAO membership constitutes such a large percentage of the total automobile business in Ontario, it would seem logical that the rate board recognize the expertise of IAO at the initial stage. IAO is offering to the board the benefit of its experience, the knowhow and hands-on involvement that it brings to the table for the board to utilize. We fully understand that the final say for rates and ranges of rates established rests with the board. However, to ignore IAO's expertise, at least on a consultative basis, would be analogous to reinventing the wheel at tremendous cost in both time and dollars.

For this reason, we feel recognized rating associations such as IAO should have the opportunity to consult and work with the rate board at the initial stage.

It is genuinely hoped that the rate board will recognize the importance of the initial rates and ranges established being realistic for all concerned parties, be they consumers or suppliers. If the original rates are not realistic, it will only create chaos in the market and result in an appeal process that could involve numerous complaints, withdrawals from the market, lengthy appeal processes, etc.

The specifically bothersome portion of the bill dealing with this item is subsection 20(1). We suggest the industry's concern could be overcome by altering this clause along the following lines.

"20(1) Upon classes of risks exposure being prescribed for a category of automobile insurance, the board, following receipt from insurers' organizations of an analysis of the current industry automobile experience, including proposed pure premiums and such other information and data as the industry deems relevant, shall approve a range of rates with respect to each class of risk exposure."

Section 19, part II, of the bill references the introduction of what can be called a uniform classification of risk exposures; in other words, a standardized classification plan that must be used by all insurers. In addition, in other sections of the bill or the regulations, reference is also made to the elimination of current rating variables of age, sex and marital status.

This section, and the inferences that can be drawn from it, are of concern to the IAO. First, why the need for a standard classification plan that must be uniformly used by all companies? This removes the basic innovation and competition that exist within the industry. Risk classification plans have evolved over time, covering many years. Currently, we have a basic government-approved classification plan with permissible variations.

These variations are to the advantage of the insuring public and are definitely not a disadvantage, so why take them away? The benefits to the public of a variable plan are only limited by the expertise of the actuarial marketing and underwriting functions within the individual companies. Standardizing a classification plan will deter the much-needed research and development to continue the ongoing refinement of the classification plan that many companies use as a competitive tool.

The implication flowing from this section of the bill is that there could be a significant redistribution of the premium being currently paid by the various classes of risks. In other words, there may be a severe premium dislocation for individual insurers. There are two reasons for this: one, standardization of the classification plan, and two, the elimination of age, sex and marital status as rating variables.

In the first instance, the standardization of the classification plan will force many companies to withdraw such beneficial discounts as multicar discounts, renewal good-driver discounts, good student discounts, senior citizen discounts, etc. Without any material change in the class plan, the above will automatically increase the premiums for many insureds, mostly in the mature driver category, and that represents about 90 per cent of the insurance public.

The second instance, particularly the elimination of age and sex as rating variables, will necessitate a major overall change in the plan which could cause a much more severe premium dislocation. This whole area of age and sex as well as standardization of the classification plan itself needs much more study and, therefore, time before it is implemented. Since the decision of last spring to eliminate these rating variables, such time has not been granted to the industry. Although some studies have been done, more in-depth research is still necessary.

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Preliminary studies indicate that while, overall, the premium comes out to no change, the individual changes by type of driver such as the mature driver, females under 25 and males under 25, were in many cases quite drastic, the mature drivers and females under 25 paying more and the males under 25 paying substantially less. In many instances, the range of changes within a class was considerably in excess of plus or minus 20 per cent.

As a result of just this first study, in our opinion, the indicated premium dislocations were too great for public acceptance and additional work is required. As an example, class 02, a mature driver with short commuting: Approximately 21 per cent of risks so classified would pay an additional 20 per cent or more in premium.

In this respect, we would offer a suggestion or recommendation to the committee. The present Bill 2 ties the creation of a rate board to the establishment of a standardized classification plan before any hearings and rate promulgation can be accomplished. We suggest that the two be separated.

We know of no reason why the board cannot be established as quickly as possible with minor revisions to the proposed bill. Companies and/or advisory rating bureaus could then file for rate adjustments using existing classification plans and thus ensure a viable marketplace. Concurrently, the present studies on classification could be brought to a conclusion.

Finding appropriate substitutes for age, sex and marital status is a very complex task and many studies have been conducted throughout North America to find an equitable solution. We believe that the plan drafted for Ontario as of this time has the potential to offer the viable substitutes.

In a new plan, some premium dislocation has to be expected. However, before the proposed plan goes through the consultative process, we believe it is important to go through a complete actuarial analysis with a view to examining possible modifications that would minimize as far as possible premium dislocations during the transitional period. The research has already been started and we are requesting more time to finalize the potential solution.

We would like to suggest one other change to the proposed bill and that is that while we feel Insurers' Advisory Organization should be included at the initial stage of the rate-level deliberations, we must also be permitted to provide services to individual members which may wish to deviate from the ranges established by the board.

The rates established by the board will be averages based on a large volume of data supplied by all companies. Since they are averages, they may not be appropriate for all companies. An individual company, therefore, may want to deviate from the board's promulgated rates based on that company's individual loss experience, operating expenses or a combination of the two.

IAO must be allowed to work with its individual members in these cases and at the same time not have a specific company filing binding on all members. The proposed legislation, subsection 11(6), common interest, should clearly state that association members are not subject to this requirement in such cases.

I will turn it back to Mr. McCormick for a summation.

Mr. McCormick: To summarize, we have six points:

1. We strongly oppose the establishment of a government-owned and operated automobile insurance rate-setting board.
2. IAO feels it should be involved at the initial stage of the rate-making process and offers the benefit of its expertise to the board in this regard.
3. We feel the proposed classification system is going to create serious premium dislocation problems and suggest more study is needed before it is introduced.
4. We recommend that while the new proposed classification plan is being studied, the government proceed with the establishment of a rate review board, either on a prior approval or file-and-use basis.
5. Once studies on classification are completed, we recommend public hearings so that the automobile insurance buyer will be well aware of the dollar implications he may be facing as a result of the new classification system.
6. IAO must be able to assist member companies which may wish to deviate from the board's published rates based on their own individual company's loss experience, operating expenses and the like, without having a specific member company's ruling binding on all IAO member companies.

That concludes our presentation. We would be happy to try to answer any questions you may have.

Mr. Charlton: I have a couple of very brief questions.

Just prior to Christmas, when the Treasurer announced the 4.5 per cent increase for this year, there were comments from the industry about that being welcome but that it was not essentially what was asked for or what was required. Can you give us some kind of indication of what your organization would have been recommending as a basic rate increase this year?

Mr. Chelley: It would have differed significantly by company, because at April 23 not every company was on an equal footing.

One of the problems with the flat 4.5 per cent as we saw it was that some companies had literally been nine and 10 months without an increase and would have been putting an increase through in two to three months down the line. Some companies, either through good luck or good management or having a good crystal ball, had put a rate increase through a month before. Those companies were not in nearly as bad shape as those that had gone the nine or 10 months before.

So 4.5 per cent for some companies was close to being very adequate, but if you had not had a rate increase for nine or 10 months prior to April 23, so that you are now looking at quite a lengthy time, then you would be looking for at least an eight per cent to nine per cent increase minimum. That is the bottom line. It would vary by territory and vary by class.

Mr. Charlton: We are likely looking at another round of increases, probably to be considered this fall. Can you give us some kind of indication of what we might be looking at in the next round from your perspective in terms of what you feel the companies will need?

Mr. Chelley: It is very difficult to answer that because, again, we would love to have a crystal ball. We do not know what is going to come out of the Coulter Osborne study. We are very anxious to know. We feel that no matter what system is used, nothing is going to reduce the number of claims coming in. It does not matter whether it is government or free enterprise or this rate classification system or that. That does not stop claims. What we have to do is change the environment. Until we get some meaningful tort reform and hopefully a no-fault type system, rates are going to continue to escalate. They reflect only the actual dollars being paid out.

At this stage, I cannot tell you what that will be. We will be doing an analysis of 1987's results within the next few months. We know that in Ontario, bottom line, we lost, I think it was \$330 million including investment income on automobile business in 1986.

Mr. Runciman: I just want to follow up on that last one. I made reference to that yesterday, to consumers having difficulty understanding the industry losing so much money and then wondering why it is so enthusiastic about staying in the business, the auto sector.

I wonder if it is possible at some point for either your organization or someone in the industry to provide the committee with a breakdown with respect to where the money is going and why you are indeed suffering losses of that magnitude, with some sort of rationale why you remain in the business, considering those kinds of significant losses. If your organization is the

appropriate one, I think it would be helpful, certainly to me and I think to all members of the committee.

I want to say that I very strongly support your views with respect to a rate review board versus a rate-setting board, but I am having some difficulty with your comments about the distinction between having a regulatory power versus rate-setting power. What is the distinction there? If you are saying the board should have the ability to set your rates through regulation--that is the way I read it--what is the difference between that and a rate-setting board?

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Mr. Chellew: It is very arbitrary when the government sets it, I believe, whereas if an industry sets it, an individual company can go before a review board, open its books and say: "Here is what we paid out. Here is what our expenses have been. Here is what our losses have been, and in order to turn this thing around this is what we need." That is then reviewed and approval is given or not given, whichever is the case.

When a government sets a range of rates, it is a very arbitrary process. "Here are the ranges, live with them." It is then very difficult for a company to go back and try to deviate from those ranges. It is a very lengthy process. You can lose a lot of business in the meantime because of market forces. You might say, "Until we can get the appropriate rates approved we are going to have to abandon some of those classes. We cannot afford to keep running those classes with the kinds of rates we have."

Mr. Runciman: So this could involve, rather than an industry-wide approach, it would involve individual companies applying.

Mr. Chellew: Or an organization like the Insurers' Advisory Organization representing a membership of companies that would go before the rate review board and present a case on behalf of its member companies.

Mr. Runciman: You were involved with the Mercer report.

Mr. Chellew: I have not seen the Mercer report.

Mr. Runciman: You were made reference to in respect to your stats, I think, they used--

Mr. Chellew: Kindly, I hope. I have not seen the report.

Mr. Runciman: I think there was some reference to it. Perhaps the parliamentary assistant can help me in that.

Mr. R. B. Nixon: What you may be referring to is the fact that Mr. Herb Phillips, who is the senior vice-president and chief actuary of the IAO was on the ministry's advisory committee setting up the classification system.

Mr. Runciman: There was some other reference in the report but I do not have it with me.

In any event, you mention in here the severe premium dislocation. This is from page 5 of your submission, where you say its standardization "will automatically increase the premium for many insureds mostly in the mature driver category that represents about 90 per cent of the insured public."

We have heard comments made here today, and certainly in the media, which indicate that these changes are going to have a very positive effect. What you are suggesting here is that the bulk of insureds, or 90 per cent are going to be facing increases. Or are you simply talking about significant dislocation, which could be up or down I guess?

Mr. McCormick: Mr. Chairman, if I might answer that question. What we are saying is that approximately 90 per cent of the insureds in Ontario are in the "mature" category which is 25 or over. There could be 20 to 25 per cent of that 90 per cent who will experience an increase of 20 per cent or more in their insurance premiums. Not everyone will be a loser. Some will be gainers, but there will be a significant number of losers and they will lose a significant premium dollar.

On the other hand, virtually all male drivers under the age of 25 will receive a significant premium reduction somewhere over 20 per cent and, therefore, a very large dollar. So the mature drivers and females under 25 will, in many instances--the figures I just gave you--be paying for the decrease which the under-25 males will receive.

Mr. Runciman: We have heard a lot about the essential unfairness of the age and sex classifications. We are talking about people who are going to benefit under this new program, essentially folks under 25, some of them, anyway, single males.

Mr. McCormick: That is right.

Mr. Runciman: Is there any other way of addressing the problem? You are grouping everyone in, you are tarring everyone with the same brush, and there are some good drivers in those age and sex classifications. Is there any way that the industry could be dealing with that problem in a better fashion than they have in the past?

Mr. McCormick: This is one of the points that we make in our submission. We need more time to study this. We really think that a standard classification, a mandatory classification and the elimination of age, sex and marital status is too big a jump too fast, and will cause serious dislocation. That is why we are suggesting that this be separated and that more time be given to try to solve this problem. It is a very difficult one. We do not have any ready solutions; obviously, if we did, we would offer them to you.

Mr. Runciman: We were talking about information. The superintendent indicated the other day that he hopes to be able to have statistics on a quarterly basis so that the board's decisions will be based on relevant and up-to-date information. Do you think that is feasible? If so, what is it going to involve? Have you any idea, since you are in essentially somewhat the same business?

Mr. Chellew: I think we can give quarterly figures, all right. I do not know whether that is very valid, however, because quarterly figures vary dramatically from quarter to quarter.

For example, I think we all know around this table that driving conditions in the winter months create a lot more accidents than they do in the summer months. So you could look at a time frame where the first quarter can look a lot worse than the second quarter; you could get a rate increase based on having a very bad first quarter which, in fact, could level out in the second quarter. You could look at a second quarter which could be much

improved over a fourth quarter. It is a very short time frame in our industry to evaluate or rate. I am not so sure of the fairness in it.

As an industry, traditionally automobile insurance has frequency in the winter months and severity in the summer months. In other words, you get the severe accidents, you get the head-ons and the disasters we read about with three people killed and four injured, that sort of thing, in the summer months; but you get the constant frequency, such as we had last Monday, for example, in the winter months. So it is hard to take our industry and bunch it into any time frame.

If we lived in a climate which was fairly constant, where the time of year did not make much difference, the elements were not a problem--

Mr. Runciman: I see where you are coming from. What I am trying to get at: Do you think it is possible for the board, based on the legislation we have before us and dealing with this on an industry-wide basis, to be able to do an effective job in terms of pulling all of the necessary information together? You are dealing with 190-odd companies. Is it going to be able to do that, or is it simply an impossible task?

Mr. Chellew: I think we can give you numbers, but I do not see it as being very practical. We can certainly give you numbers but, again, as I say, I am not so sure from anyone's point of view it would be too practical.

Mr. McCormick: Mr. Chairman, if I might add, it would also add to the expenses. As we would have to generate quarterly reports rather than an annual report, it is certainly going to add to the costs.

Mr. Runciman: You may not be able to answer this, but there has been some reference, and I have returned to it on a couple of occasions, to the number of drivers who have five- and six-star ratings in the province. It has been indicated that the bulk of drivers fall within those rating categories. There is also some suggestion, I think in the Mercer report as well, that a lot of companies are rating their drivers in that category when, in effect, they should be somewhat lower; and that under the standardization, a lot of those five- and six-star rated drivers are going to find themselves misclassified and facing some severe increases in rates. Do you have any comment on that, or any knowledge in that area?

Mr. Chellew: I would not be able to give you any numbers but there is no question that there are misclassified risks that never surface. There are people who do not always tell the truth when they complete an application form. Maybe they have moved from one province to the other, and you cannot do a good carrier check for something. Therefore, we often give them the benefit of the doubt and they have been given a five-star or six-star rating.

There is some of that. I am sure that happens. We are doing, as an industry, a claims tracking history right now which is very important. We are in the initial stages of it, but that is going to give us more information on individual drivers than we have ever had as an industry. That is under the auspices of the Insurance Bureau of Canada; maybe it will touch on that during its presentation. That is going to give us much better detailed individual driver experience than we have ever had.

Mr. Runciman: I have one final question. A comment was made by the Consumers' Association of Canada the other day. It talked about constituencies in the United States which had rate review boards in place. It did not

indicate whether they were rate-setting boards or whether they had unisex programs in place there, but they indicated that in states that have rate review boards in place, automobile insurance rates are running about 13 per cent lower, on average, than in states without review boards. I wonder whether you have any knowledge of that situation.

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Mr. Chelley: For example, Massachusetts, which is probably the best and the worst example--

Mr. Runciman: Just for the record, they did not mention any specific state.

Mr. Chelley: If you are talking about states where the government sets rates--Is that what you are talking about?

Mr. Runciman: They did not distinguish whether they were or not.

Mr. Chelley: Most states in the United States, as I understand it, operate on a prior approval basis, one of the two methods I explained.

Mr. Runciman: With a review process.

Mr. Chelley: With a review process. The only states I am aware of off the top of my head that have government-set rates--Texas is one where there seems to be a fair bit of latitude, give and take; I believe Massachusetts, North Carolina. Are there any other states you can think of, Bob, that have government-set rates?

If you do not mind, Mr. Chairman, if I can proceed, we have to deal with what has happened in those states, because while rates may be low, you get companies like the Fireman's Fund, which just paid several millions of dollars to the state of Massachusetts to buy its way out of the state, literally. Over 60 per cent of the private passenger automobile business in Massachusetts is in the Facility Association. We hear all these individual groups, and I understand their concerns, but in Ontario between two and three per cent of all private passenger business is in the Facility Association. It is not nearly the problem we think it is, but we look at it with a different pair of eyes.

North Carolina, I think, is trending the same way. The last statistic I heard was that in North Carolina well over 20 per cent of the business was now in the Facility Association. While you may find rates are lower, you are getting all this bunching into the residual market, and there is a day of reckoning. The companies are abdicating those states, and it is not good. It is not a healthy situation at all.

Mr. Chairman: I have Mr. Kanter next, but on that point you made, is it your information that the reason, say, one company bought its way out of Massachusetts was the high court settlements?

Mr. Chelley: No. They could not get the rate approvals they required. They were constantly in court with the state superintendent of insurance.

Mr. Chairman: No, I was addressing the question in which you said most of them were in a facility. Is that because of the high--

Mr. Chellew: Yes.

Mr. Chairman: If someone had one accident and the judgement of the court was so high that the next time he was put into a facility?

Mr. Chellew: No, it is mainly because of inadequate rates. When you get classes where rates are grossly inadequate, companies say, "We do not want that class any more." That class ends up going to the Facility Association, so they get it back through the back door.

Mr. McCormick: May I just comment? Mr. Runciman asked for a rationale as to why the private insurers continued to want to write automobile insurance in Ontario when we have lost money, including investment income, in 1986 and, I venture to say, again in 1987. It was not always unprofitable, and we sincerely believe it can be profitable again.

However, in the 1980s, bodily injury claims have skyrocketed in this province. A lot of that has to do with legislation, court awards and court decisions. Bodily injury claims went up by 125 per cent from 1981 to 1986. We believe it can be profitable again if we have the reforms which we have been encouraging for several years now; that is, partial no-fault and tort reform. We believe these could make serious reductions in the claims costs and therefore make the insurance industry--the private sector--profitable again. We believe, of course, that the consumer is best served by private sector automobile insurance and the competition it provides.

Mr. Chairman: Do you include therein the withdrawal of the prejudgement interest?

Mr. McCormick: Prejudgement interest is part of the tort reform, yes. Collateral benefits are another one, gross-ups.

Mr. Kanter: I believe Mr. Chellew mentioned a claims-tracking history project you are undertaking?

Mr. Chellew: I am not, but the Insurance Bureau of Canada is undertaking that, yes.

Mr. Kanter: I see. Well, perhaps they would be the best people to ask about it. But, could you give us any information about it?

Mr. Chellew: I really would not want to go on their turf. I think they are coming before you tomorrow, so I prefer not, because it is their turf.

Mr. Kanter: Fair enough.

Mr. Chellew: If you do not mind, sir.

Mr. J. B. Nixon: Just a couple of questions. Some of them are stimulated by the questions that the member for Leeds-Grenville (Mr. Runciman) asked. I just wanted to go over some material so that it is clear for the members of the committee.

Are you aware of the uniform classification system that is proposed and the fact that it is a draft?

Mr. McCormick: Yes.

Mr. J. B. Nixon: Mr. Herb Phillips, your chief actuary and senior vice-president, sat on the committee which prepared this uniform classification system.

Mr. McCormick: Yes. We are aware of that, Mr. Nixon.

Mr. J. B. Nixon: Have you seen the Mercer report?

Mr. McCormick: No, we have not.

Mr. J. B. Nixon: OK. Well, I would suggest to you that if you take a look at it, the preliminary conclusions by Mercer's consulting actuaries as to the distributive effects of this uniform classification system are quite different than you suggest. I would ask you what analysis do you have, and would you table it with us?

Mr. McCormick: A study has been undertaken by the Insurance Bureau of Canada and, as I understand, it will be part of the Insurance Bureau of Canada's presentation tomorrow. I did serve on that committee; however, I do not feel, as a member of Insurers' Advisory Organization, that I should be discussing that in detail here. I would only say that I would certainly think that the Mercer study should be reviewed and analysed by the industry to see what assumptions and what variables it used and therefore just how valid it is, because it could very well be that it has many, many assumptions and estimates that are questionable.

Mr. J. B. Nixon: I suggest to you that I have seen the IBC report and, without pre-empting its presentation, I suggest to you that one could draw different conclusions than you might be drawing, so--at least until tomorrow.

Mr. Chairman: Let us leave that.

Mr. J. B. Nixon: Let me go on from there and make a comment. I also understand the IBC has extended the invitation to the government, and the government has accepted the invitation to sit down and work out some of the problems.

Mr. McCormick: I understand that is correct and I am happy to hear that. Yes.

Mr. J. B. Nixon: One other thing. You make the point that it appears that in April of this year the government made a decision to eliminate rating variables. Back in 1978 rating variables were based on age and sex and marital status. Are you not aware though that in 1978 the select committee on company law recommended the elimination of age, sex and marital status as rating variables and that in 1979 the then Minister of Consumer and Commercial Relations, Frank Drea, announced that the government was committed to ending the use of age, sex and marital status, and in 1985 the then Superintendent of Insurance indicated that the industry was preparing a three-year data collection plan so that by 1988 they would have a new plan of data on which they could develop a rating system which did not rely on age, sex and marital status?

Mr. Chairman: Would you like to answer those those (a), (b), (c) and (d). Yes, yes, yes, yes, sir.

Mr. McCormick: It is true that the industry undertook to gather

additional data to see if it could come up with alternatives to age, sex and marital status as rating criteria, but those things are not as good. For example, if you take the number of years licensed, you can say that years licensed is a surrogate for age; so a company might say, "Well, if someone has been licensed for nine years then he is 25 years old." But what about someone, say a new Canadian or perhaps a housewife who now just decides to get her licence and is perhaps 40 years old? She will only be zero years licensed. You cannot use number of years licensed as a surrogate, and we have no surrogate for sex.

Mr. J. B. Nixon: Except the proposed draft uniform classification system recommends that we use driving experience from other jurisdictions, so someone who may be a new Canadian but has been driving for five or 10 years in the United States or another country can bring forward that driving experience to the Ontario jurisdiction and rely on it to develop a claims-free history. At least it deals with one of the two.

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Mr. McCormick: Yes, but it is sometimes very difficult to get that information.

Mr. Chairman: I would like to thank you for your presentation.

Mr. Farnan: I think you had me down.

Mr. Chairman: I am sorry. I did have you on the list. I beg your pardon.

Mr. Farnan: It is just one basic, rather simple question. Maybe you can throw some light on it, but before I get to that, your role is as a consultant to insurance companies, is that right?

Mr. Chelley: We do actuarial and rating and loss control and engineering services for member companies, but we do it for other people as well, yes.

Mr. Farnan: I am not sure about this, but I take it that in your brief you are offering your services, or are you saying that it would be a consultant's fee from the government?

Mr. Chelley: No. We are saying that it is in the interest of the industry that if it is to be a rate setting board--God forbid, but if it is--then use what is there and do not reinvent the wheel. We will be happy, free of charge, to work with the rate board so that the range is not so far off the wall that we do nothing but rent out Maple Leaf Gardens to have hearings for three months to try to bring it back on the wall. Let us try at least to have the range at a realistic level so that we can get on with the job.

We are saying IAO has the expertise. It is there, it is there for the government and it is there for the government to use free of charge.

Mr. Farnan: Fine.

Mr. Chelley: To the government, not to our members.

Mr. Farnan: I am sure that the ministry is working through good

actuarial advice, but one of the things that I find about this is that Bill 2 does not exist in a vacuum. There is a huge public perception that indeed the insurance industry has been making excessive profits. Although it does not take the route I would prefer, I think it is the government's approach to addressing this issue.

This is the question I have to ask you. In the public perception, people feel that they have been taken to the wall. I frankly do not believe the insurance industry is unprofitable, I do not think the public at large believes the insurance industry is unprofitable and I do not think we would be facing Bill 2 if the insurance industry is unprofitable.

Why does information about profitability have to be dragged out of the insurance company? It always seems to be extremely reluctant to provide information. Can you shed some light on this?

Mr. Chelley: I am very surprised to hear you say that. There are superintendent's reports, there is a blue book and there is a green book talking about federal returns.

The industry will end up with a return on equity in 1987 of perhaps 11 per cent. I do not consider that to be exorbitant. Our industry has to have money prepared for when we have more than one Barrie, more than one Edmonton in a given year. We have to build a capital and surplus base. I think there would be a lot of complaining if we ever had two or three Edmontons in one year and the insurance industry was not able to respond. I think the human cry would be heard in more than room 151 in this building. There has to be a capital and surplus base. It is a business that is capital-intense and has to be available and ready.

By the same token, I think that as an industry, our books are open. I am surprised to hear you say that.

Mr. Chairman: Just for your benefit, it is going beyond room 151. It is probably going out throughout Ontario on televisions.

Mr. McCormick: If I could just add, the return on equity for the general insurance industry Canada-wide in the last 10 years has been just 10 per cent, hardly a worthwhile profit when you consider the risk that is taken. You can put money into a guaranteed investment certificate virtually risk-free and over the last 10 years you would have averaged 10 per cent risk-free. We take quite a risk, and yet we have only averaged 10 per cent.

Here in Ontario, it is unprofitable in automobile. We have told you that. It is \$330 million lost after investment income in Ontario for automobile for 1986, and I venture to say it will be that way in 1987.

Mr. Farnan: Basically, what we have is a philanthropic approach to provide insurance?

Mr. McCormick: No. As I mentioned to Mr. Runciman, we do not feel that the automobile insurance industry in Ontario needs to be unprofitable. If the government will bring in the smart no-fault which we have recommended and the tort reform, it will be profitable again. At the same time, it can reduce losses and reduce premiums and, in a competitive nature, be beneficial to the consumer.

Mr. Farnan: Just to wrap up, one of the things about this particular

aspect is that I think, having the board, at least there will be some window into the industry. It is something I personally welcome.

Mr. Chairman: Thank you very much for coming before us to present your expertise. It will be taken into consideration along with all the other presentations.

Mr. Runciman: Before the next witness, I wonder if the committee agrees. I have made this comment a couple of times now. Perhaps the Insurance Bureau of Canada is the appropriate body to provide the information, but the question about profitability and so on has arisen on a number of occasions. I wonder if they could table something with the committee--they are appearing tomorrow, I gather--which would clearly indicate their experience over the past two or three years, with a full explanation.

Mr. Chairman: Would you raise that when the clerk is back? Perhaps she can ask them in advance and they could bring it with them. Either that or they can--

Mr. Runciman: If the committee is in agreement, perhaps you can ask the clerk, then I will not have to raise it again.

Mr. Chairman: Just so I remember.

Mr. Charlton: That is your job.

Mr. Chairman: Is that right? That means you guys can sleep and I have to stay awake.

The next group has a blue looseleaf binder. There has only been one copy made available for each caucus. It is from the Progressive Casualty Insurance Co. I almost misread that. Actually, a blur went there when I saw it.

Andrew Rogacki, is it? Perhaps you would like to have a seat after you get your water. There is also Harry Brown. You are a lawyer?

Mr. Brown: I am the lawyer for the company and counsel to them today. The presentation will be given by Mr. Rogacki. I have pointed out to him that one of the committee is my own MPP, Ron Kanter, so we are sure to have one avid listener in the group today.

Mr. Chairman: We never let two lawyers get at one another here.

PROGRESSIVE CASUALTY INSURANCE CO.

Mr. Rogacki: I would like to thank you for the opportunity to present our views to this committee today.

My presentation will be divided into three areas. First, I will introduce Progressive and explain our business. Second, I will make some general comments about the regulatory environment and insurance industry. Third, I will make some specific comments with respect to Bill 2.

Let me start on Progressive's business. Progressive has been in business for 50 years and we are the largest nonstandard and specialty insurance carrier in North America, with a very large financial capacity. We operate in a highly specialized area of the insurance business and are not in the business of providing insurance for the standard consumer.

High-risk insurance is our target market, the very customers often viewed as undesirable in the standard markets. Our disciplined and sophisticated method of risk assessment allows us to give these particular customers the quality of service they deserve.

Progressive has been operating in Canada for five years and we want to commit to further investment in Canada. We intend to incorporate a Canadian federally chartered insurance company in the near future and to significantly expand and develop our capacity. Our current Canadian product line includes nonstandard auto, two motorcycle programs and commercial auto, which are sold through independent insurance brokers.

We are about to introduce a variety of new products, including programs for owners of exotic automobiles and motor homes. We also have plans to provide our nonstandard programs to consumers in Alberta and Nova Scotia.

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In addition to the nonstandard automobile business, Progressive Casualty Insurance Co. also operates transportation and financial services groups. Operators of long-haul truck fleets and transit bus systems are typical customers of the transportation group. Our presence in the transportation area in Canada is adding capacity to the hard-pressed truck and fleet markets.

Given the complexities of the transborder transportation business, our presence and proven service excellence on both sides of the border allows us a unique competitive advantage to the increasing number of carriers who operate in both Canada and the US. The financial services group supplies insurance and related services to financial institutions, to date in the US only.

In contrast to the US, nonstandard markets are not well developed in Canada and standard carriers have shied away from the mid-to-high end of the risk spectrum. In some cases, what we consider to be average consumers have been pushed up to the more expensive Facility Association, or insurer of last resort. Consequently, the Facility has unnecessarily grown very rapidly. We see an opportunity for development in this nonstandard market that would result in more competitive pricing and more choice for the consumer.

Let me explain. Progressive's nonstandard business takes high-risk insureds and offers some a cheaper and better service alternative to the more expensive insurance provided by the Facility. We believe that in Ontario at least 25 per cent of consumers now insured by the Facility should not be there and would qualify for Progressive programs. In a way, we serve as a stepping stone for Facility customers who will, in time, return to the standard market.

What we are doing is creating a new market by segmenting a layer from the Facility. We are already attempting to achieve this via our new nonstandard insurance transfer program, which, by the way, is being very well received by the brokerage community.

To summarize, on the nonstandard side, Progressive is looking to increase its Canadian investment and offer a large number of insureds the benefit of cheaper prices and better service than the facility. We also hope to add much needed capacity to the transportation market.

Let me turn to the regulatory environment. As you know, many US states have rating boards and many of them work quite effectively at protecting both the consumer and the insurance industry. We are very comfortable operating in

this environment.

However, it is key to the industry's health that the board be managed by people who fully understand the technical aspects of insurance in detail. More specifically, it is crucial that a member of the board be assigned to liaise with nonstandard carriers and specialty programs.

Although we support the establishment of a board, we are very concerned by the prospect of uniform classification. Our business revolves around market segmentation and specialization. We use sophisticated statistical techniques for choosing rating variables which very accurately represent our target group of customers.

These rating variables are true predictors of risk and are verifiable. By more accurately defining risk, we are able to offer lower rates to the segment of consumers who fall between standard and Facility type insurance. We are happy to deal in this high-risk area, which standard insurers have tended to abandon.

I would like to reiterate the very different nature of the nonstandard programs from standard programs and make some very minor suggestions, which if applied, would ensure the continued viability of our business and benefit the Ontario consumer.

Let me turn to the recommendations.

1. We recommend that section 24 of the bill should include nonstandard programs together with the Facility, because our business is more closely related to that of the Facility than to standard programs.

With regard to nonstandard or specialty programs where rates are less than the approved rates of the Facility, we recommend that such programs be file-and-use. In other words, the approved Facility rates would become a ceiling for nonstandard programs. File-and-use will give us the flexibility to offer cheaper rates to the consumer without delay.

2. As our programs are engineered by sophisticated statistical market segmentation, we request that section 23 be extended to give us the freedom to develop these innovative approaches and present them for approval. Our own classification and rating variables would be included, with the exception of age, sex and marital status.

More specifically, with regard to our programs using different segmentation parameters from those approved by the rating board, or when rates are above those of the Facility, we recommend that the filing be submitted "prior approval" to the board. In other words, we would seek the board's consent prior to taking any action. We would hope that such approval would not be unreasonably withheld, provided there is strong statistical and analytical evidence to support our filing.

Similarly, a time limit, such as 30 days, should be put in place during which the rating board would give us an answer. As our programs are highly reactive to the marketplace, lengthy delays might result in our inability to offer the best programs for the consumer.

3. We strongly believe that fleets should fall outside the regulatory framework provided by Bill 2. Many of these fleets are large companies, and in some cases the operations are more sophisticated than insurance companies

themselves. Pricing adjustments may be retrospective, that is, based on experience after the fact. The needs of these fleets cannot be adequately serviced when they are put into the same categories as the average consumer.

We understand, by the way, that this point is already addressed in the proposed classification system and we applaud and support the decision.

In conclusion, we at Progressive very much look forward to continued growth in Ontario and expansion of our programs to meet the needs of high-risk and other specialty consumers. Nonstandard and specialty markets play a valuable role in the insurance business. Our success proves that our particular approach, based on market segmentation and sophisticated statistical analysis, enhances industry competitiveness and is therefore of great benefit to the consumer.

I have outlined some of the specific adjustments necessary to the legislation currently under review by this committee. The viability of our expansion and growth in Ontario, and indeed in Canada, depends on our continued ability to provide nonstandard programs at lower cost to high-risk customers.

Thank you for the opportunity to address you here today. I look forward to discussing with you the classification system in detail when the next round of public meetings is scheduled. I would welcome any questions you may have.

Mr. Keyes: I think it is a very interesting presentation and it does seem to fit into many of the areas that enhance the bill as we have seen it. I just want a clarification of your comments with regard to the Facility.

Do I gather that taxi drivers who made representations to us, and others on their behalf, would be an area you would be happy to work with to try to use that as a special segment? That does seem to be one of the major groups, as you know, that are in our Facility.

That is one question, and following up on that, likewise, when you talked about other groups, do I gather that some of the high-risk individuals who are turned down by regular insurance companies and are recommended to Facility would then be another category you would be interested in working with?

Would you comment on the taxi drivers first?

Mr. Rogacki: OK, let me start with a comment on taxis. To date, we have not written taxis. We have concentrated our efforts on private passenger auto, motorcycles and commercial auto, small panel trucks for the average electrician, and people who have difficulty obtaining insurance elsewhere. In the future it is possible that we will look at taxis.

As you know, taxis are divided into two markets, the owner-operator and then the fleets. The fleets are a bit wild; the owner-operator is something that can be looked at at a future date. So far we have not done so.

Mr. Keyes: When you talk about fleets here, you are talking about fleets in the taxi industry, I presume, as well as in the trucking industry, or not?

Mr. Rogacki: At that point we were looking mostly at the trucking industry but, yes, any fleet of taxis in excess of five units is by and large

sophisticated business.

Mr. Brown: If I can just assist you there, Mr. Keyes, the company has been writing business in Ontario for about five years. It is very small right now. What it wants to do is to be assured that it can operate within the board system, which we are proposing here, and then it is intending to introduce a substantial amount of capital into Ontario and increase the capacity. That is really where this company is at. So they may not have looked at the taxicabs just yet, but they make the decision to get further involved, and they will, as one of their risk markets.

Mr. Keyes: In the high-risk field.

Mr. Brown: In the high-risk field, yes.

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Mr. Rogacki: Today most of the automobile business we write is for high-risk individuals, people with impaired driving convictions and people with all kinds of convictions, people that standards basically do not want.

Mr. J. B. Nixon: You have not written taxicab fleet business before. What are some of the problems that you see in writing taxicab fleet business? I think it would be valuable for the committee because we have heard depositions, both from the brokerages and from the drivers. However, if you do not have an opinion, that is fine.

Mr. Brown: I could maybe assist you because I am really the claims counsel for this particular company. I have acted for many other companies that have had insured taxis, both owner-operated and fleets. I can tell you from the claims side that it is a horror show. You have a taxi driver who would be in that cab for maybe three or four months, has maybe one or two accidents, and even if the accident is not particularly his fault--for example, a pedestrian steps off the sidewalk to cross the street and is hit by a cab--there will usually be a split in liability, but you cannot locate the driver. The driver passes on to Calgary or to Vancouver, and the company ends up paying the whole of the claim. On the claims side it creates difficulty in properly controlling those claims. That is one of the biggest problems.

I was here this morning and yesterday listening to the cab representations. Really, they have to get their act in order on the risk-management side. It seems to me that a lot of companies just pull out of the market. I can tell you about the old Fireman's Fund, Wellington and Pafco. They just throw up their hands and said, "Gee, we cannot control these guys."

Mr. Chairman: There is a much bigger problem on the fleet side than with the individual owner-operators?

Mr. Brown: That is the question the classification system proposed.

Mr. Rogacki: I can offer you two additional comments, the first one being, without any question, risk management. One thing that could help us is very strict licence evaluations, which force drivers of taxis to have a certain degree of competence or skill.

Mr. Runciman: You mentioned that you cover nonstandard auto. The gentleman was mentioning impaired drivers and that sort of thing. When you are talking about nonstandard autos, you are not talking about the guy going to

work every day in his family car, who may have had a couple of impaired convictions.

Mr. Rogacki: Sure.

Mr. Runciman: You do cover that sort of thing?

Mr. Rogacki: Sure. The guy who goes to work in his family car and gets into a couple of accidents and gets kicked out of his insurance company or has an impaired driving charge still needs to go to work, and we will insure him.

Mr. Runciman: It was not clear from your submission that you covered that sort of individual.

Mr. Rogacki: I guess the term "nonstandard," simply refers to anything that the standard carrier does not usually write.

Mr. Runciman: How many brokers are you associated with across the province?

Mr. Rogacki: We are associated with about 900 brokers.

Mr. Runciman: How many brokers are there? Would that represent 50 per cent of the brokers in the province or better?

Mr. Rogacki: No, much less.

Mr. Runciman: Are you expanding that all the time?

Mr. Rogacki: Yes.

Mr. Runciman: Have you worked with the Insurance Brokers Association? Are you getting any resistance from brokers?

Mr. Rogacki: Not at all. By and large, we are getting great co-operation because brokers that have any kind of a substantial book of business with the Facility will see that they can get better service for the insured with us, and they are coming aboard.

Mr. Runciman: You have been in the province for five years. How is your bottom line? Are you making money?

Mr. Rogacki: I guess for the first four we did not do so well. We lost money on the underwriting side and made it up on the investment side, but in the fifth year we are doing OK. This year we are doing OK. We are going to make money.

Mr. Runciman: Are you talking about 10 or 11 per cent return? Are you looking at that or better?

Mr. Rogacki: We are looking at higher than that.

Mr. Runciman: That is in the high-risk field?

Mr. Rogacki: Yes. We are in a very volatile market and it is very risky and the returns are commensurate.

Mr. Runciman: You made reference to the American operations and that you do not have any problems with rating boards, but there are some comments here that there is a variety of operations in the United States. Some are rating review boards and there are a number of rate-setting boards. We are talking here about a rate-setting board. Massachusetts was mentioned, where 60 per cent of the business is now in Facility.

Mr. Rogacki: As is New Jersey.

Mr. Runciman: Are you operating in Massachusetts?

Mr. Rogacki: We do not operate in Massachusetts or New Jersey, the states which were referred to.

Mr. Runciman: Why do you not operate there?

Mr. Rogacki: Because the rates are insufficient, in simple terms. There is no way to make money.

Mr. Runciman: Does that not ring some alarms bells with you? There are rate-setting boards operating in those jurisdictions, and the government is proposing the same sort of operation here. Massachusetts has 60 per cent Facility. It seems to me you should be expressing some concerns about it. I cannot direct you as to what you want to express, but it seems to me that if you do not want to operate in those jurisdictions in the United States--

Mr. Keyes: We are only two or three per cent Facility.

Mr. Runciman: We are only two or three per cent Facility, sure. Mr. Keyes has said we are only two or three per cent, but I am sure at some point many years ago Massachusetts was probably only two or three per cent as well.

Mr. Rogacki: If you look at today's Facility rates, and if our suggestion is adopted that we are allowed to be priced with the Facility price as a ceiling, we can operate that way. If you look at today's prices, we can operate well and profitably charging less than the Facility does. Yes, we are concerned, but until we see what the rates are, it is difficult to be concerned.

Mr. Runciman: Are you operating in any states with a uniform classification system?

Mr. Rogacki: Yes, there is a state in which we operate, which is Texas, but that state has a complete parallel set of companies, called Texas county mutuals, which are basically unregulated. There are two kinds of companies in Texas: standard insurance companies which have a uniform classification, if you will, and the nonstandard and specialty markets which are not regulated at all.

Mr. Runciman: Which your company is.

Mr. Rogacki: Which we are.

Mr. Runciman: So you are operating in a nonregulated environment.

Mr. Rogacki: That is correct.

Mr. Chairman: I did not hear your answer to Mr. Runciman's question

about the rate of return. Is it in excess of 11 per cent?

Mr. Rogacki: We expect a rate of return in excess of 11 per cent.

Mr. Chairman: In a high-risk area.

Mr. Rogacki: Yes.

Mr. Chairman: So that someone making less than that--I will leave that for someone else to ask. I just wanted to clarify that. I did not know whether I heard it correctly.

Mr. Rogacki: Let me just answer that. Whether we achieve it in any given year or we achieve it this year or did last year in Canada is a different matter. As a company, we expect a rate of return higher than that.

Mr. Runciman: That is one year out of five. Let us put it in context.

Mr. Chairman: I probably should not ask this as chairman, but I am really curious. If a company or a group were making 11 per cent or less and was in sort of a general category as opposed to a high-risk category, what would you have to say about that? Are they operating badly, or mistaken or misguided? I do not want to put you on the hook. Never mind, I will withdraw that question. I will let someone else ask that question.

Ms. Hart: There is one area I would like to raise with you. I am not sure whether we can come to any resolution. You mentioned in your brief your sophisticated statistical analysis which enables you to come up with that segment of the marketplace in which you can make money. I am a little confused, really, because we have been hearing from other segments of the market that the writers of general auto insurance do not keep or are just beginning to keep the statistics which enable them to analyse with any degree of precision what levels their rates have to be in order to make money. I am perhaps extrapolating somewhat.

I understood from your brief that this is something that has been going on for a number of years perhaps in the United States or other jurisdictions. Can you elaborate for me just a little bit? I cannot understand how we have had rates set in Ontario for 10 these many years without statistical analysis which can be validated across the board.

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Mr. Rogacki: Let me answer with respect to my own company. We do indeed have a very extensive data bank and a very sophisticated statistical analysis, and we do segment the rates to a very fine degree.

To give you an idea, in the United States--we have not introduced symbolist programs here yet--each make and model of car has a symbol. That symbol can tell you as much as whether that car should cost more or less with respect to liability, collision or comprehensive insurance, based on a very big loss experience for that make and model of vehicle.

Ms. Hart: So lemons cost more.

Mr. Rogacki: Yes. We are data hoarders.

Mr. Chairman: Lemons?

Ms. Hart: Lemonade.

Mr. Rogacki: We are data hoarders and we ask a lot of questions. We put them all in a big data bank, and somebody comes with a great idea of how to look at one cut of customers which is better than anybody else does. In our business it is vital. Without that, we just could not operate, because we operate on very high-risk segments which are usually, as I said before, people with accidents, impaireds or what nots, who have higher accident frequencies. If we could not determine very precisely the desirable customer from the person we cannot insure, we would get killed in the market in no time.

The market is very efficient. If you offer a product at an attractive price to somebody whom should not have offered it to, you will be flooded with those people in no time. So our underwriting guidelines and our statistical segmentation have to be very precise, and they are.

Ms. Hart: What I want to know, and maybe you are not in a position to offer a comment, is why all companies do not operate on that basis?

Mr. Rogacki: We cannot answer that.

Mr. Chairman: That may be one of the reasons we are here.

Mr. J. B. Nixon: Our experience in the ministry has been that there is a wide range of degrees and levels of sophistication in underwriting practices within the industry from company and company, so I think your perception is fairly accurate.

Mr. Kanter: Another issue that has come before this committee is the accuracy of information that some companies have. I take it in your market the accuracy of information that you get would be extremely important. Would you be in a position to share the importance you place on accurate information or any means that you use to get that accurate information? That seems to affect the overall risk and therefore the cost of insurance.

Mr. Rogacki: Sure. We gather data as well as anybody else; we probably just use it better. I guess we get our share of people who do not tell us the right answers to the questions, if you will, but it is all accounted for in the statistics. There is a degree of credibility to the number when you have to have a band around it. We have no problem with that.

Mr. Kanter: In terms of the form, I am not aware of the amount of standardization there is in the question on the form that you would use.

Mr. Rogacki: We use the same form as everybody else. It is a standard form. I believe it is the SAF-1.

Mr. Kanter: So your main emphasis is really on the amount of information that you gather as an individual company and the use you make of that information.

Mr. Rogacki: Yes. We use it in more sophisticated ways. Our methods of rating and our methods of distinguishing the people, segmenting the class of consumers that we can do business with, are perhaps either more sophisticated or more developed.

Mr. Brown: That is why they can depopulate the Facility by 25 per cent. They get their business from two sources. The Facility comes to them or

else they try to intercept business going to the Facility. So what these people want to do is have the right to charge a lesser rate. You have heard about the rate range theory and you have heard about the ceiling rate theory. You have the ceiling rate theory in section 24 of the bill, and they want the right simply to charge less than that.

Mr. Keyes: I think that is provided for, in a sense, on another idea. I have forgotten the section, but it is that if a company wanted to apply to the board--

Mr. Brown: That is 13.

Mr. Keyes: --through Facility, it would pertain to an alteration of rate outside, but I would think the same thing could apply inherently under section 24 if it is Facility.

Mr. Brown: I think you are going to require an amendment to provide for it. I might be wrong.

Mr. Rogacki: We are closer in terms of what we do to what the Facility does than to a standard company.

Mr. Brown: They also want to make sure that the range rate is wide enough--you have heard this before--in order to compete on price. As you heard from Cliff Fraser of State Farm yesterday, if you have, say, a 20 per cent range, which is--say the rate is \$500, 10 per cent above, 10 per cent below, nobody competes above \$500; they compete within the 10 per cent. If State Farm and Royal and Co-operators all choose to cluster in that \$465-\$475 range, then a company that can only charge \$450 without going to the board for a further deviation is not going to be able to compete because it does not have the brand name of a State Farm.

What you want to do is protect companies like this that are the smaller players in the market. This happens to be a company coming from Cleveland, but there are similar types of companies up in northern Ontario like Formosa, Mutual and these types of companies too.

So how do you work that into the legislation, or how do you work that political message to the board? That is going to be a task for you people to do.

Mr. Chairman: Mr. Sola? I beg your pardon, we are on the wrong list here. Wake up, Ontario. Ms. Poole.

Ms. Poole: You have stated that most of your insureds are high risks and that you would like to have special treatment in Ontario for high-risk policyholders. Can I assume that if you did expand in Ontario, you would limit yourself to high-risk policyholders, as opposed to having two classifications, one in the standard, uniform classification system and the others having special treatment?

Mr. Rogacki: By and large, yes, although what our specialty is is truly market segmentation. It is possible that we could find a market segment which is served by the standards which we could do better at a lesser price, but it is unlikely. By and large, we concentrate on the high-risk and specialty, and I emphasize specialty.

For example, trucking markets or, as I mentioned before, exotic

automobiles, if you will, things like Porsches, are very difficult to insure. We may have a way of insuring that at a premium which would be less than the Facility. So the consumer would benefit, but it is not something that standard insurance companies go after. The markets are very small and they are very, very risky, and that is where we are very good in small markets, very, very high-risk.

Ms. Poole: Presupposing hypothetically that you got your special treatment and your exemption and once you were established and expanded in Ontario you did find it more lucrative or as lucrative to also start having standard policyholders, do you see that as a problem, having two different categories?

Mr. Rogacki: Again, anything is possible, but it is unlikely we would be in the standard business.

Ms. Poole: You really intend to stay strictly with the high-risk?

Mr. Rogacki: Let me answer it more completely. If you look at our United States presence, we just do not write standard business, with very small exceptions, and that is not really a standard, it is a grey area.

Mr. Brown: Just to assist you, this is a small company that has been in business for about 50 years. It is growing. Out of 1,000 property and casualty businesses in the United States, the insurance business is ranked 44th and growing rapidly but it has stayed in the same market.

Mr. Sola: I am interested in the sophistication of your statistical analysis. Does that include analysing the situation of the handicapped?

1610

Mr. Rogacki: Let me answer that one. We do not really look at handicapped people any differently than we look at any other consumer. We do, of course, look at medical records if the person has an incapacitating type of disability--somebody who could faint or something while driving. Other than that, we really do not have any problem with that.

Mr. Sola: So your segmentation has not actually segmented the handicapped as a group distinct from the others?

Mr. Rogacki: No.

Mr. Sola: I think that about covers it. Dianne sort of superseded my other question and Ken Keyes superseded my first one.

Mr. Chairman: See what happens when you go in the right order? You get them all answered.

I just wanted to ask you one question, if I could. You have supplied this blue binder to us, and in there is an item called "risk rater program." At page 5 of that--do you have a copy of it before you?

Mr. Rogacki: No.

Mr. Chairman: Do you mean you gave us all your copies?

Mr. Rogacki: Absolutely.

Mr. Chairman: Could you just look at page 5? You probably can tell me right off the top of your head. Under "surcharges"--

Mr. Rogacki: Are you looking at this one?

Mr. Chairman: No, it is the loose piece.

Mr. Rogacki: OK.

Mr. Chairman: That will save you trying to open it. I thought it was a present for the chairman, the way it was so wrapped.

At page 5, under "surcharges," is that specifically related to your company, or is that the standard surcharge practice throughout the industry?

Mr. Rogacki: That is the standard surcharge practice by the Facility.

Mr. Chairman: The Facility.

Mr. Rogacki: And other companies in this market.

Mr. Chairman: How about if you are not in Facility? For instance, I am just looking at one here, "conviction surcharges, group A, first conviction"--and that would include Criminal Code offences and careless driving--there is a 50 per cent surcharge. Is this just referable to Facility or would this also be referable if you have insurance through an ordinary insurance company?

Mr. Rogacki: It refers to somebody who comes with us and has a driving record with one criminal conviction or whatever. This simply tells us how we will charge him for that offence.

Mr. Chairman: The reason I ask is that in my former life I used to hear that even when a person was insured and, let us say, had no accidents, no record of any type, and suddenly found himself charged with careless driving, and he was in an ordinary insurance situation as opposed to Facility, he was surcharged 50 per cent for that conviction.

Mr. Rogacki: I cannot answer as to how standard companies surcharge. What we do is we simply pull a motor vehicle record, check a person's driving record and surcharge accordingly.

Mr. Chairman: OK. These would be your surcharges as well as Facility, but not necessarily those of someone who is not in a specialty category or not in Facility.

Mr. Rogacki: Right. I assume they do it similarly, but I cannot vouch for that. I just do not know.

Mr. Chairman: Thank you very much. You have been very informative on many areas and we appreciate your coming forward to give this information to us. We will put it in the mix with the rest of it and hopefully out will come something very beneficial.

The next group is the Metropolitan Licensing Commission. That is the big blue book. I am assured that they are not going to read from the totality of the big blue book. Perhaps you could introduce yourselves for purposes of Hansard.

METROPOLITAN LICENSING COMMISSION

Mrs. Ruddell-Foster: I am Carol Ruddell-Foster, general manager of the Metropolitan Licensing Commission. With me is the director of administration, Roy Van Veen. Mr. Van Veen was also the chairman of the working group that put together the document that has been submitted to you.

The document is not addressed specifically to your purposes today. Rather, it is a working document that the Metropolitan Licensing Commission is presently examining and it is given to you more as a resource document outlining the taxicab situation within Metropolitan Toronto.

The Metropolitan Licensing Commission does not have a position specifically on Bill 2. Our position rather is that whatever happens from these discussions and this legislation, the taxi-riding public in Metro Toronto at the end of the day not have any greater expense nor any greater inconvenience in being driven by the taxi industry. Until I came here yesterday, I did not know that I really had to speak too much to that problem. There were a couple of things I heard yesterday that concerned me somewhat and they are, in particular, the matters I would like to talk to you about today.

The Metropolitan Licensing Commission licenses 3,000 taxicabs. We similarly license 11,000 drivers. Yesterday, when I was here, I heard reference to the licensing or the insuring of the drivers. I am not here to talk to you today about the legalities of liability and where you will attach that within an insured industry. I am here to talk to you a little bit about the economics and operation of the taxicab industry in Metro Toronto. I am here to ask you, as strongly as I can, not to consider the insuring of drivers within Metro Toronto but rather to focus your attention on the insuring of taxicab vehicles.

A taxicab in Metro Toronto has a value of somewhere in the range of a little more than \$90,000. Because, of course, the Metropolitan Licensing Commission restricts entry into the market, we do support that value of a taxicab. Similarly, because of the way some people acquire taxicabs within Metro Toronto, there would be some quarters that would consider in excess of \$90,000 to be a windfall profit.

To operate within the industry, a driver must in many instances--I would estimate close to 50 per cent of the instances--pay before he starts to earn any money. If he drives on a shift basis, he puts out his \$50, \$60 or \$70, depending on what time of the week he is operating, up front before he starts to earn any.

For many drivers within the industry, there is neither the sophistication, the ability nor the inclination in many instances to ever put together enough money to pay insurance premiums on anything other than the surcharge that some of them pay on their daily shift premium. There is no other way they can put enough money together to be insured.

As to the industry in Metro Toronto, if at any time you were talking about insuring the drivers rather than the owners of the taxicabs, if you were to consider that, I suggest you would pretty well put the taxicab business within Metro Toronto out of business.

You will note when you do go through our report that the Metropolitan Licensing Commission--by the way, let me digress for a minute. Not all the recommendations within this report have yet been approved by the commission. They are looking at it and making comments as they go on certain sections of it.

You will note when you go through it that one of the recommendations is that the industry itself look to paying the drivers better for their participation in the industry. In viewing it from this whole discussion I have heard in the last two days, I suggest a good place to look at that is probably as their first venture into risk management. They should be looking at getting themselves better-quality drivers and attempting to influence their premiums that way.

Yesterday, we heard reference to a co-op arrangement between the taxi industry and the insurance industry to establish risk management. We hope we heard it perhaps being some kind of bonus arrangement or better premium arrangement for companies and individuals who take part in risk management. Certainly, the commission would endorse that kind of proposal.

We also express our sympathy, most enthusiastically, to the insurance industry. They have to have some device for monitoring the implementation of that kind of risk management.

1620

You heard yesterday, I believe, that the taxicab industry was comprised of 11,000 rugged, individualistic--I am not sure--free entrepreneurs, the last frontier of entrepreneurship.

Mr. McGuinty Swashbucklers.

Mrs. Ruddell-Foster: Swashbucklers, yes. It is the job of Mr. Van Veen and me and our associates to try to keep those 11,000 swashbucklers in line from time to time, and certainly we would have great sympathy and empathy for anybody who was trying to monitor their actions.

Mr. Chairman: Do you have a plan?

Mrs. Ruddell-Foster: There are those members of the industry who think that, yes, we do, and we supply the wherewithal at the end of it. While we endorse it, we do caution you that we do not think it would be an easy thing to monitor within the industry.

We also would like very much to concur in the recommendation that there be an establishment of a data bank. We have some questions about it and, maybe, an additional comment after listening today. Of course, our questions are the ones that I guess everybody is going to ask you about a data bank. Who gathers the information? Who provides the information? And I guess most important, who has access to the information and how do they then use that to affect the operation, in our case, of the taxicab industry through insurance?

Perhaps I could ask you just to go through some of the recommendations that are within our report. In section 4 we actually come to the recommendations. We will save reading the inch-and-a-half book that I noticed was received with some consternation in some quarters.

In the first recommendation, regarding the driver's abstract, it is our feeling that is an onus that belongs with the employer for attempting to assure the quality of the individual he employs to drive his taxicab. There are other operational problems to us in that people renew right now, this time of the year, but obviously their insurance renews all along the way and it just would not work any other way.

In recommendation 2, the commission certainly is quite prepared to tighten up its interpretations on whom it is allowing to have taxicab drivers' licences within the parameters that it now has.

That recommendation has to be viewed mostly with recommendation 3. This is very important. I think it is important to you. It does not really come within the provisions of Bill 2, except that we would like you to use your clout within the provincial government to have this effected more quickly. We have approached the Ministry of Transportation to have this new category established. We think it should be done province-wide, by the way. We understand it is an expensive and a complicated undertaking for them to select them out.

Mr. Chairman: Mr. Nixon has indicated he just wants to make a comment that might be of some help.

Mr. J. B. Nixon: Just to concur that the Ministry of Financial Institutions thinks you are making a very appropriate recommendation and is encouraging the Ministry of Transportation to do just what you are suggesting. I just wanted to let you know.

Mrs. Ruddell-Foster: As an old colleague of the minister, could you get him off his sailboat?

Mr. J. B. Nixon: Sure.

Mrs. Ruddell-Foster: Fine, thank you.

Moving right on then beyond that one--except that, yes, the benefit here that we would really like to emphasize to you, thank you very much, is that if you do this and if we beef up our training school for cab drivers, we think we could then be putting in the marketplace a driver who could be judged on his skill level rather than purely on his years of experience in the field.

If you say, "We have picked better drivers than you have had in the past," and we can say, "And along with that, we are going to train them a little better," we would like to say that insurance should start at a position where it says, "You have this skill." That should be the arbitrary factor in establishing the rate; then plus or minus from there. But start at a place that is a little more in the middle of the road rather than handicapping new drivers totally when they come into the market.

We have talked about a central body for the gathering of information. Again, this report also speaks to the incentives for people who go into the industry, to make it worth while. The taxicab industry, as far as drivers are concerned, is a very transient kind of undertaking. Not all of them end up as members of the provincial House. I certainly had a lot of sympathy with the gentleman who indicated that in his attempts to settle claims within the taxi industry, he had a lot of difficulty finding some of these people.

Item 7: While it does not specifically apply to your bill, you need some way within your bill of assuring that the people who apply for and get the insurance on a taxicab, particularly now under this more privileged condition, are the people who own the taxicab and who operate the taxicab. They have to be the real owner--not the owner on paper, but the real owner of the taxicab and the real operator of the taxicab. If you could find some way to tie that together better than we can do municipally, I think you would find that you really were a long way towards solving many of the insurance problems within

the industry. This recommendation, while it has major ramifications within the taxicab industry, does come with the endorsement of the people on this working group--not just the commission, but the participants in the industry who were on this commission.

The rest of the items are operational matters for the commission rather than matters of interest to you.

There are a couple of other matters that I would also like to touch on before I am finished.

Mr. Nixon, you indicated that there had been previous discussions with the brokerages association some time before yesterday's presentation. Unfortunately, we are not aware when they made those submissions to you. You did reference them again, but I was not too sure what your reference was to the allocation of responsibilities to the brokerages.

I would have to tell you that while the brokerages are very responsible businesses and do a very fine job within Metro Toronto, they do not represent all of the taxicab industry. Even within that, I would have great difficulty if you were to give any real responsibilities to the brokerages, particularly for the allocation of any insurance rights. I suppose, as with any other business, there are some excellent brokerages. There are also some that I would have a little difficulty with having responsibility for how other people conducted their businesses.

Mr. J. B. Nixon: We never intended to do that.

Mrs. Ruddell-Foster: Fine. The exemption for fleets over 10: A taxicab fleet, in Metro Toronto at least, is not what you think of when you think in terms of a trucking fleet. A fleet of 20 could very easily have, taken to its extreme, 20 different owners.

When you talk about a fleet, you are not necessarily talking about one person who owns 20 vehicles and, obviously, insures them all and runs them all as what would be a multimillion-dollar business in that case. Rather a fleet, as we understand it, and there certainly has to be some definition clarification, could be, as I say, a group of 20 individually owned taxicabs that are not operated by the same person and do not have the negotiating strength, for instance, within that group. If you are thinking of it, as I heard reference, in terms of the drivers, that does not happen. The drivers of those fleet vehicles could all work for individual people.

One other thing I would like to alert you to, because I have heard you talking about it, is owner-operators. We license 3,000 vehicles in Metro Toronto. We also have on record over 2,000 leases. That means I have 2,000 absentee owners with whom to deal. If you are talking about special insurance arrangements for owner-operators, I am going to tell you that, in all likelihood, in Metro Toronto there are not 500 really and truly owner-operators.

What you have to think about in those terms, or in your legislation, is that there are a lot of people who lease and drive. Many of them drive their own vehicles. The commission feels that while it provides an excellent level of service, that will not keep enough taxicabs on the streets. So we also have to do something to encourage people who are right now of an inclination to be owner-operators without second drivers. We have to do something to be sure we have a lot of second drivers, and the argument for not having a second driver

is that your insurance is too expensive. Where you come into this is hopefully in finding us some way around that, because we either have to go to almost twice as many taxicabs on the street and have them all owner-operated or else stick with the number we have but be working in two shifts. Taxicabs in Metro Toronto, by the way, work 12-hour shifts. So you work two drivers a day.

1630

Other than that, we offer you the expertise, I guess, of the Metropolitan Licensing Commission when you are specifically dealing with taxicab matters. We do not find it an industry like any other, even the insurance industry. We think when you are specifically speaking to that part of your legislation, we certainly would be most anxious to offer any assistance we have.

One other question that has not been raised is a little tangential to this. When you speak in Bill 2 of insurance arrangements for taxicabs, are you speaking only about taxicabs or are you speaking about any vehicle that transports the public that we license? I am particularly thinking of the livery cab business within Metro Toronto.

Mr. J. B. Nixon: Bill 2 is silent on that. The act speaks to all vehicles that are required to obtain insurance under the Highway Traffic Act. Any vehicle that goes on the Queen's highway is compelled to obtain automobile insurance, so the scope of the bill--

Mrs. Ruddell-Foster: I am certainly not nearly so conversant with it, but I thought there were some places in this legislation that cabs were specifically identified.

Mr. J. B. Nixon: Yes, but it is not with an intent to exclude another category.

Mrs. Ruddell-Foster: It is not, OK, because we do license also the livery cab industry--limousines--within Metro Toronto, and it is experiencing a similar problem.

Mr. J. B. Nixon: As long as they have to pay auto insurance, as required by the Highway Traffic Act, and indeed they must.

Mrs. Ruddell-Foster: They must, but then they must also acquire whatever the Metropolitan Licensing Commission requires through the Municipal Act.

Mr. J. B. Nixon: That is right.

Mrs. Ruddell-Foster: That is about all we have to tell you or ask you about the bill.

Mr. Chairman: Thank you. Questions? No questions.

Mr. Keyes: Only a comment, I suppose, I would not want to suggest here, but one of the ways you could get around some of those problems is if you did not retain a system in Metro of always limiting the number of licences. If it were a wide-open system of licensing, I know what would happen; we would be strung up, because they are worth \$90,000 a licence.

Mrs. Ruddell-Foster: We on the Metropolitan Licensing Commission

have the opinion that if we were starting with a clean slate, we never would do it. It is something we inherited, and if we were to now open it up and do away with that market value price, the financial ramifications to people who have bought into the industry, say, in the last three or four years and are still financing their \$90,000 investment would be fairly onerous to the people who just started to participate.

Mr. Keyes: But it would get around a lot of the problems.

Mrs. Ruddell-Foster: Oh, yes.

Mr. J. B. Nixon: I have a question for clarification. You are suggesting that truly driver-owned-and-operated taxicabs number approximately 500. It is my understanding of what we are proposing that the insurance, for our purposes, does not attach to the taxicab licence but to the automobile. For your purposes, as I understand it, you need to know that anyone operating any automobile under the authority of that taxi licence has auto insurance.

Mrs. Ruddell-Foster: Yes.

Mr. J. B. Nixon: Then the distinction becomes important, because obviously, someone who leases a taxicab licence still may fall into the owner-operated category because he owns the car and only--

Mrs. Ruddell-Foster: This is now--

Mr. J. B. Nixon: You have a different definition of owner-operated than we do.

Mrs. Ruddell-Foster: Not only that, this is the one recommendation that I said, if you could help us with it, has far-reaching ramifications within the industry.

Our bylaw says that the owner of the taxicab licence must own the vehicle and must acquire the insurance that goes on that vehicle. That is what our bylaw says must happen. What then, in effect, happens is that the person who is going to lease purchases his vehicle, conveys his vehicle to the name of the taxicab owner, then for all intents and purposes, he leases the plate and attaches it to his own vehicle.

But then, because he has to conform with our bylaw, and there are very good reasons why he has to conform with our bylaw, we go through what is really a charade. A person who is the taxicab owner according to our records acquires the insurance for a vehicle that he really only owns on paper and probably never sees and has no responsibility for operating unless he gets into really deep trouble with us, at which time we are going to lift his licence. Then, all of a sudden, it is his \$90,000 asset, which in many instances sits in a portfolio with a whole lot of other things; that is the only time he has any real knowledge of it. But the bylaw does say the owner of the taxicab licence must be the owner of the vehicle and must acquire the insurance. They do it on paper but in actuality that is not what is happening.

Mr. J. B. Nixon: I realize that, but where are you suggesting we create the problem for you?

Mrs. Ruddell-Foster: You have not created any more of a problem for me. I am asking you to help me through this problem because our recommendation says it would be a much better industry--and I think I have certainly heard

that sentiment expressed here; everybody acknowledges that owner-operated taxicabs provide the best level of service in any municipality--if the legislation spoke very strongly to the person who acquires the insurance, because he certainly gets it at a beneficial rate, or at least somewhat of a reduction. It would help solve our problem if the person who gets the insurance has to be the person who is operating the vehicle day to day, sees it, manages it and has direct responsibility for it, .

Mr. J. B. Nixon: To a certain extent, that is exactly what we are proposing, because the uniform classification system proposes that the rate review board establish insurance premiums, set insurance premiums for the owner-occupied taxicab category. But because of the vagaries in fleet experience, fleets have been exempted from the owner-occupied category.

Mrs. Ruddell-Foster: I am sorry. I do not understand the part about the vagaries.

Mr. J. B. Nixon: The problem that everyone has in writing for fleets is that the drivers are transients. The experience is all over the map and it is very difficult for anyone to underwrite for a fleet when you might have 50 cars and 500 drivers in a year; I am being a bit dramatic. They may have a very bad experience. They just do not have the same degree of care and control that an owner-operator does.

Mrs. Ruddell-Foster: If you do that, you do not help the people who appeared here earlier today, because they then get the full cost passed on to them; in fact, some of those major fleet owners are daily passing on that cost to them by surcharging.

Mr. J. B. Nixon: I understand that. This is only a proposal. How would you make it make it better? How would you help them?

Mr. Van Veen: With regard to one of the factors that was identified, the industry in its prior presentation admitted that part of the solution is risk management. Risk management can encompass even large fleets, fleets in excess of 10. The real problem, however, is that the insurance industry usually looks at two years' prior loss experience to project premiums for a year ahead, and the problem is right now. What might be worth looking at is perhaps some class of risk exposure that takes into account an approved risk management program by an insurance company that would apply benefits up front rather than wait for loss experience and perhaps adjust afterwards for the actual loss experience.

From a practical point of view, fleets are a problem. But if they were approached from the point of view of risk management we could award instant bonus up front and take the position that it will improve if both parties approve. If it does not, then the the penalty can be applied afterwards.

1640

Mr. J. B. Nixon: I am only pursuing this because I am interested in the solution. The response that the industry will make--and I am not supporting it; I am just trying to think it through so that we can arrive at a solution--is that the problem is that you can never guarantee that you have stable drivers who will go through--

Ms. Ruddell-Foster: But that does not change in any way when you say fleet. If you say 10 is the cutoff number, what will happen immediately is

that suddenly, instead of having 10 fleets of 30 vehicles, I will have 10 vehicles or nine vehicles.

Mr. J. B. Nixon: No. I am just saying that. You are talking about where the margin changes.

Ms. Ruddell-Foster: Yes.

Mr. J. B. Nixon: Let us go beyond the margin to where these fleets exist.

Ms. Ruddell-Foster: Overall.

Mr. Van Veen: The insurance industry has been touting one of the solutions as being risk management, and the cab industry has accepted its portion of the responsibility. I think the brokers' association acknowledged it.

I think it ought to be noted here that one of the reasons that insurance premiums went up in the cab industry is not because the performance of drivers got any worse; there are other factors, a whole bunch of factors. The insurance industry itself has indicated the tort system for one. That is their perception anyway, and I will not bother rehashing the whole grind.

The solution seems to be to improve the loss performance to where it is. They claim the only way it can be done by risk management, by better driver selection, among other things, which brings the financial incentive. If that is the only solution and the cab industry is willing to implement it, there must be an agreement between the companies, some approved common program that they can implement and the companies can approve.

The problem is the time lag to get the benefits. While the patient is on medication today, to use an example, the cab industry will die, and the cab industry does contribute significantly towards the economy of the city of Toronto.

Mr. J. B. Nixon: No doubt about that. It has almost reached the point where it is a utility. My question to follow is perhaps an unfair question, but do you have any advice or thoughts on how you would impose a requirement that the insurance industry together with the cab industry can engage in a risk management program?

Mr. Van Veen: Therein lies the crux of the problem, namely, to categorize it in a uniform manner, to say that there is a certain class of risk if you engage in risk management. I recognize it as a problem.

Mr. J. B. Nixon: We are working towards a solution. We are trying to find a solution.

Mr. Van Veen: I do not think there is an easy solution, but I think there is some way. Risk management programs have been in effect for years now, and insurance companies have data. I cannot believe that there is no available data to indicate some kind of results. Somewhere along the line, somebody will have to swallow the bullet and take some loss. The insurance companies have made profit in the past on the cab industry. Surely they can in good faith reinvest again based on the profit they have made. It was a profitable line before.

It is an investment in future earnings, so to speak, and the insurance companies have to accept their part of the responsibility for improving the situation in the cab industry. It seems to me that rating is the only way.

Mr. Chairman: Are there any further questions from any members of the committee? Thank you very much for your information you have provided to us. We will take that into consideration, quite obviously.

The committee adjourned at 4:45 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE
ONTARIO AUTOMOBILE INSURANCE BOARD ACT
THURSDAY, JANUARY 14, 1988
Morning Sitting



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From Safeco Insurance Cos.:

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, January 14, 1988

The committee met at 10:06 a.m. in room 151.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT
(continued)

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

The Vice-Chairman: I have a few announcements at the outset. Irene Bass, the consulting actuary on the Mercer report, will appear on Wednesday, January 27, at 3 p.m.

Also, we have had a request for assistance with expenses within the government guidelines from out-of-province witnesses we have invited. I am wondering if it is the wish of the committee that we authorize these expenses. Do we have any more particulars on that?

Clerk of the Committee: We have some more detailed particulars, but the committee had agreed that, on request, within the guidelines, it would authorize it.

The Vice-Chairman: Also, we have had requests for transportation expenses from out-of-town witnesses. Is it the wish of the committee that I authorize those?

Mr. Swart: So moved.

The Vice-Chairman: Very well.

Our first deputants this morning are from the Insurance Brokers Association of Manitoba. I would ask you to come forward and take the seats immediately in front of me.

Welcome. Perhaps you could introduce yourselves for the purposes of Hansard. I am sure the chairman would tell you that we ordinarily divide the time, half for your presentation and half for questions, if that is acceptable to you.

INSURANCE BROKERS ASSOCIATION OF MANITOBA

Mr. Garriock: My name is David Garriock. I am a chartered insurance broker within Manitoba. I am the third-past president of the Insurance Brokers Association of Manitoba and I am a past director of the federation of insurance agents and brokers of Canada.

I was asked to attend this meeting in the latter part of last week. The views that I have to express comparing the Manitoba Autopac product to the Ontario free enterprise product are basically my own. There was not enough time, unfortunately, to sit with our board of directors or to vote on any public opinion, if you will. So the opinions I am giving are basically my own,

which I do believe many of my colleagues also share, but these are not the official opinions of the Insurance Brokers Association of Manitoba.

I would like to open by just basically stating that I operate insurance brokerages in Manitoba and in Ontario. It is a rather unusual scenario, I suppose, but I get to see both sides of the industry, both sides of the delivery of the product.

In my opinion, it is simply a difference in the distribution of a product. The end dollars that go into the pot, whether they be collected in a public system or whether they be collected in a private system, are in essence the same, although there are different ways of collecting the moneys.

As a broker living in both environments, I earn an adequate living from both systems. I might add that from the economic standpoint, in my opinion there are in the Autopac system, if I may call it that, fewer employees employed within our industry than there would be in the private sector, the reason being that the transactions which are handled and the processes which are used in order to transact an insurance transaction on an automobile are very quick. They are very simple. They could be handled by a relatively untrained person.

In many instances, in many offices throughout Manitoba, many employees transacting these documents are not licensed agents and, as a consequence, because of the renewal cycle within the province being virtually one day, which is the last day of February when everybody's policies expire, the brokerages tend to increase their staff for a very short period of time, flow the renewals through, which is rather chaotic, and, after the renewal cycle, relieve their employment status and reduce their fold.

In the public sector, the business is more exacting, in my view, because of the competition created through having to make rate comparisons with various insurance companies. In the Ontario environment, if we as brokers do not produce a quality product at a quality price for our clients, they will simply go elsewhere. In Manitoba, that option does not exist. As a consequence, we as brokers operate, basically, convenience stores; wherever we are convenient, the customer will shop. It is quite a difference.

I would like to stress, though, that in both systems I do earn an adequate income.

I understand the purpose we are here is to do a little comparison, to give you some pluses and some minuses. If I am wrong, I apologize, but that is my understanding of why I am here. The advantages within the Autopac system are that our government in the province has done away with the age, sex, and marital discrimination features which, in my opinion, are a very obvious flaw within the Ontario system. I believe it is very much a plus, an advantage, within the Autopac situation.

If this were to be a part of Bill 2, which I understand is being considered, I would like to make one comment if I could. We have seen within our industry that there can be a see-saw effect. If the rates are decreased in one sector, they are going to have to be increased in the corresponding sector. There was a lot of confusion and a lot of problems and it was considered to be a political mistake in Montana a short while ago, where the age, sex, and marital discrimination features were eliminated. It ended that the good drivers and the underaged females were penalized in order to reduce rates on the underaged male side.

To my personal knowledge, I do not know that there is anything actuarial to warrant that change. Politically, it might be a good decision, but I think it would be strictly a political decision.

One of the other advantages within the Autopac system--

Mr. Chairman: I am sorry; I missed that. Did you say it would be a political decision to eliminate sex and so on?

Mr. Garriock: I think it would be, because I do not think it could be shown actuarially that the underaged male driver warrants a reduction.

Mr. Chairman: I just missed that. Sorry.

Mr. Garriock: As I say, I am presenting my viewpoints and I am not a politician.

One of the other features regarding the Autopac situation which I deem to be advantageous over the Ontario system is that within Autopac it is assumed that all drivers are good drivers from day one until they prove themselves to be bad drivers, at which time they are penalized. It is interesting in that the particular belief applies to age, sex and so forth.

It is obviously an advantage to young people starting off. A 16-year-old male with a driver's licence for one week would pay exactly the same insurance premium as a 35-year-old male who has not had a claim or a conviction in six years. That underaged individual is put into a probationary period, but the premium he pays is that of a quality driver. If there are accidents and convictions, then he is surcharged accordingly. It is a complete reversal of what we see in Ontario, where you have to earn your points.

There are some other things in the Autopac system which I see personally as being advantageous. The Manitoba Public Insurance Corp., which administers the Autopac product, offers a merit point system on drivers' licences. It is because the fee of the drivers' licences reflects also on the insurance premiums. They administer and admit a merit point system. Basically, for every two years of clean driving, you get a merit point. If you have a conviction, depending on the degree of the conviction, demerit points are removed.

What happens is that you can bank your merit points, and if you are faced with a conviction, your surcharges will be eliminated because of the fact that you have banked a merit point. One kind of offsets the other. If you get into the demerit side of the equation, then you are surcharged. It is an interesting way of administering that particular portion. I am trying to find my booklet on it.

Also from the Autopac standpoint, there are advantages within the product itself that is offered within the province. The no-fault accident benefits are the best in Canada, bar none. They have very high limits. For example, in Manitoba, the medical expenses under the product are at \$100,000 versus Ontario at \$25,000; total disability benefits of \$300 in Manitoba versus \$140 in Ontario; partial disability at \$60 per week in Manitoba, with nothing in Ontario. Permanent impairment is up to \$20,000 in Manitoba, with nothing in Ontario. The death payments are \$2,000 to an unlimited amount, depending on the awards that may be considered by courts. In Ontario, it is \$1,000. Funeral expenses in Manitoba are at \$2,500 versus Ontario at \$1,000.

We certainly have nothing negative to say about that. The product within the Autopac system is, in that particular vein, a good product.

Now for some of the disadvantages, on the other side of the fence, within the Manitoba system versus the Ontario system. While Autopac is very simple to understand from a public standpoint, because it is only one system, one product--if you have a claim, you go to a claim centre and it is very much like an ABC situation, there are, in my estimation, some serious disadvantages. I do not know if they are under consideration or not, but I view them, as a broker serving the public, as being disadvantages. Again, these are my own views.

First, there is no competitive choice. Within the Ontario system, as I stated earlier, if a broker does not do his job, if he does not find the best deal for his client, he is going to lose the client. In Manitoba, everybody pays the same for the same vehicle no matter where he buys it. There are territorial changes of rates, depending on whether it is within the city of Winnipeg or outside the city of Winnipeg, but in essence, everybody pays exactly the same. There is no incentive to try to do better.

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The government of the day that installed the Autopac product took away the personal right of an individual to insure his own personal asset against loss. In Manitoba, everyone must insure his vehicle for physical damage, whether he wants to or whether he does not. It is mandatory.

The scenario is that a person with a 1975 beater must purchase physical damage insurance, including comprehensive coverage, on an all-perils format when perhaps his vehicle does not warrant insurance. It may be a \$300 or \$400 vehicle on which he is forced to pay perhaps a \$300 or \$400 annual insurance premium. The vehicle has no worth. In particular, you have to keep in mind that there are deductibles that go along with this. In Manitoba, a minimum deductible is \$350. The beater may not be worth \$350, yet he has to pay the physical damage insurance for it.

A lay person looking at this would probably underwrite the scenario that his premium is going to the other side of the equation, the guy who has the Mercedes or the Jaguar. The money is going somewhere.

In my view, it is a serious deficiency within the Manitoba product. I think that the right of choice should be given as it relates to the physical damage portions of the vehicle's insurance.

Within the province of Manitoba, the Manitoba Public Insurance Corp., which administers the Autopac product, regulates the fees that are charged by auto body shops. As a consequence, not only are the product and the pricing for the product administered by one body which is very politically motivated--and I do not mean that in a negative sense at all towards the executives who operate the MPIC--but what has happened, and what is being aired very widely in our local newspapers and on our local television, is that when elections and so forth are coming forward, there are never any rate increases. Everything is very calm and collected and it is very quiet. But as soon as the political climate feels safe, then everybody gets killed with rate increases. I deem the management and the influences of government on management are other negatives within the Autopac system.

Perhaps a solution would be something along the line of what you people are looking at right now in Bill 2, which I am personally very much in favour of. I wish there was something like that in Manitoba, where there would be an independent review board, if you will, that would sit down within the

industry--from the insurers' end of it, from the brokers' end of it and from the political end of it--where commonly there could be a consensus as to what is a fair rate, something that will not kill the public in one fell swoop, be politically safe and yet still keep a handle on the peaks and the valleys that are very typical within the general insurance industry.

In Manitoba, our rates seem to be developed at the whims of we do not know whom, but we do know they are very much politically influenced. In Manitoba, there were a number of years--1985 and 1986, I believe--when there were no rate increases or very little rate increase. In 1987, we faced a nine per cent increase when it was rumoured that, with the losses that were anticipated and reserved for in 1986, a 17 per cent rate increase was necessary to break even, let alone take into account the inflationary factors of 1987's losses. Today in Manitoba, we are looking at some unbelievable rate increases which have really created a very serious situation, in my view. Again, because we do not have a choice, we have to pay.

Getting back to the auto body shops and other industries which are auxiliary industries, if you will, they are regulated and there is no competition among them to try to reduce the costs or to compete against each other. If you lose your right fender, whether you go to auto body shop A or auto body shop B, exactly the same fee is paid. There is absolutely no difference and therefore there is a lack of competition within the repair industry. A lack of competition, in my view, is not good. More competition could lead to lower claims, better management and in the end a lower-cost insurance product to the public. Again, I am stressing that these are my views.

I look at ourselves, insurance brokers in Manitoba, as basically being puppets. My own opinion is that they look at us as being basically public servants. Our association has not been asked for any kind of input or any kind of opinion into the management of the product, into the necessity of rate increases, decreases or perhaps changes in administration. The management within the system in Manitoba is strictly done by the executives within the Manitoba Public Insurance Corp., who very much are held at the strings: they believe they are themselves puppets of the government of Manitoba.

I have nothing against the MPIC. The people who operate it and manage it are competent people. I think if they were left on their own without political interference, we would end up without these catastrophic increases we are seeing today, or are rumoured to be seeing. To my knowledge they have not been published yet; I do not know where these rates came from. There was a recent poll conducted by the Insurance Brokers Association of Ontario, and in fairness to the Manitoba product and in fairness to Ontario, I think this poll was released too early. Unless Ontario actually has the rates from Manitoba, I do not see how a poll could be made.

I would like to make comment on that. In fairness to all parties and in fairness to the Manitoba system and to the Ontario system, we as brokers who actually distribute the product have no idea today what these rates are. We have been told there is a percentage spread of anywhere between 24 per cent to 74.5 per cent. But that does not say how much a 1985 Chevy Celebrity is going to cost to insure if the person has a specific use.

Mr. Chairman: Was that the specific poll you are referring to in the press releases?

Mr. Garriock: Just a few days ago. I heard it on the news, on the CBC just yesterday. I do not know where the figures came from unless they have

actually been leaked. I do not know. We brokers do not have them. The Insurance Brokers' Association of Manitoba does not have them. We do not anticipate receiving our rates so that we can start preparing to issue the product until towards the end of January.

Mr. Swart: You may not have seen that they have been answered in the Toronto Star this morning.

Mr. Garriock: They were?

Mr. Swart: Yes.

Mr. Garriock: Thank you. You know more than I do then, because in Manitoba the agents and brokers do not have it.

In my opinion, the system within Manitoba is a good system. Again, I see from both sides of the fence some advantages and some disadvantages. I am trying to give you some of the advantages and disadvantages that I see within the Autopac product, but I see it as being good perhaps only because I am used to it.

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In Manitoba I can operate a business with relatively few employees, versus the operation that I have in Ontario. Again, I would like to stress that. There is in the employment situation a greatly reduced employment factor in Manitoba, more than there is in Ontario.

I believe that within Manitoba, the government, which is administering the product, should loosen its strings a little bit or at least take a look at it, in that it should continue administering and policing the liability side of the product along with the accident benefits. I believe the public deserves to be protected against the neglect of others. Perhaps the government is the best mode of doing that.

It has been proven in Manitoba that we have a very good product in so far as protecting the public is concerned, and it really has lived up to its mandate in that particular situation. I do believe though, as I have stated earlier, that the Autopac system should release its handle and its grip on the physical damage side and perhaps private enterprise should be brought back in, as a competitor at least, on that particular portion of the risk. I think the public should have the right to be able to insure or not insure its own asset. I do not think that should be a right of government.

In so far as Bill 2 is concerned, in my reading of it, and it was hastily read, I am in total favour of a rate review board for both of my offices in Ontario. As I stated earlier, I only wish that in Manitoba there was a Bill 2 or the equivalent of it. I think it would eliminate any kind of political interference. It would allow the industry to act as an industry on its own, and I think the public would be best served by having rates administered within three administrative bodies.

I do not think Bill 2 goes far enough, however. I believe that in order to properly manage and set rates, tort reform as it reflects to the Manitoba law must be implemented or caps should be implemented on liability awards. I do not see how a group of administrators can properly administer and set rates, because when they begin a poker game, they do not know how many cards there are in the deck. They do not know what the possibilities or limits are

on liability awards. Within our industry, we can come very close to actuarially coming up with an amount of money that is going to be required to repair X thousands of claims, but when it comes to bodily injury and liability suits, we do not know. Under the existing Family Law Act, the sky is the limit.

Mr. Chairman: Is that in Ontario?

Mr. Garriock: I am talking here in Ontario. I am talking about Bill 2 at the moment. I look at that as being a deficiency within what you are trying to do and I think it is going to create a problem for you somewhere down the road because of the unknown of the liability situation.

One of the dangers of Bill 2 also is that if the insurers are faced with deeper losses than they are experiencing to date, we are going to see again a very tight underwriting situation where that borderline driver is going to be forced into the Facility Association, which is the surcharged auto market in the province, which I do not think is fair to those people who are borderline. Companies tend to write on the degree of profitability. If they are faced with an impending negative, they are going to underwrite very tightly. I think we are going to look at the same type of situation as occurred a few years ago where, under the tight underwriting regulations, the Facility Association became overburdened with that grey area driver.

I hope that helps.

Mr. Chairman: I have a list of questioners. Ms. Poole first.

Ms. Poole: I would like very much to thank you for coming. We have heard isolated comments about one system or the other in the past week, but you are the first speaker who has certainly given us an eyeview of both systems and it was very helpful.

A number of times you have mentioned the element of competition. Would you feel that it is a major flaw in the Autopac system that there is no incentive for quality?

Mr. Garriock: I cannot say that, no. I think the Autopac product is a quality product. The auto body shops have and do repair vehicles in a quality manner. You do have a choice of which auto body shop to go to. There are those auto body shops which are members of the Automotive Trades Association and so forth, which are very aggressive advertisers, have warranties and so forth. I do not believe the public is accepting a reduced quality product on any side of the equation. I think what is happening is that they are paying too much for what they are getting because there is no competition. It is at the whims of a particular insurance adjuster.

For example, that adjuster may say, "To fix that fender, it is going to take three and a half hours of labour." It may take only two. That body shop, even though it put two hours of labour into it, is going to get paid for three and a half. The other side is also possible, but, again, because there is no competition, you do not get the professional opinion within that particular portion of the industry stating, "I will do it for two hours," and, "I will take two and a quarter hours," and there is a variance.

Ms. Poole: Your premise is it is not that the quality is lacking, it is that they may be paying too much for that quality.

Mr. Garriock: Exactly. Right.

Ms. Poole: Very good. The other question I had concerned what you said was an advantage of the Autopac where you said it assumed that they were good drivers until proven otherwise. We have heard a fair amount in this committee about the bonus-malus system, which it seems to me your merit-demerit point system in reality is.

Can you see that system working with the free enterprise system if we set up our classification rating system in this way, as opposed to just eliminating age, sex and marital status as we have or as we are proposing to do? Also, we are proposing to include years of driving experience. Do you see the bonus-malus system as a much more effective way of protecting the good driver than, perhaps, using the measure by driving experience?

Mr. Garriock: Yes, I agree. I think the Manitoba system is a good system. I think it far outweighs the system in Ontario. Again, though, I would like to stress the dangers of giving everybody a six-star rating, if you will, at the outset and then letting them prove differently. You will find that the people who are reaping the benefit of the six stars at this point, today, are going to pay more under the new rate guidelines if you allow the new driver coming in as a four-star or five-star, whatever the situation may be, whatever you people decide on. Obviously there is still a see-saw effect. You still have to have the same amount of premium coming into the pot to pay the claims. All you are doing is mixing it up a little bit. How are you going to get the money? That is really what you people are deciding on, because you know statistically how much in dollars you are going to pay out.

Ms. Poole: Is it a major problem only when the person initially goes into the system, like it is front-end loaded? The next year they want insurance, obviously. They then have some sort of record.

Mr. Garriock: I cannot really answer that, because when I entered into this industry in Manitoba, where I started--I am relatively new in Ontario--the Autopac system was already in and I was not aware of the previous system. I do not know what kind of problems they encountered in the early stages of Autopac when they did the transition. At this particular point now, in so far as the Autopac product is concerned, the rate manuals we have are very simple. It is one page. Our rates are made up of one page, which I can show you, if you wish.

Mr. Chairman: It might be interesting to have a copy of that.

Mr. Garriock: I am sorry?

Mr. Chairman: Could you give that to the clerk and perhaps we could file a copy of that with the committee?

Mr. Garriock: You have to keep in mind that this is really no different than, in Ontario, having a rate manual for Metro Toronto with one category. It is just simplified. We have different territories and different uses, but for a client walking into my office, those are the rates. They are very simple, but it is the city of Winnipeg covering a preferred all-purpose and business use, basically, with the various categories going across, and everybody pays the same.

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On the other side of it, though, we do not know, as brokers, what kinds of surcharges are being attached to this product through the driver's licence

side of it. In Manitoba, it is true, you can look at this rate manual and you can say, "This is fabulous, everybody pays the same amount," but that is not true.

What happens is that our driver's licence premiums, with the exception of \$15, I believe, all go into the Autopac kitty directly, through the back door, if you want.

Mr. Runciman: What does that represent in terms of total dollars?

Mr. Garriock: I do not know that, I am sorry. I did not bring the financial statement, but to give you an idea of charges on drivers' licences, an individual with 21 points on his driver's licence in Manitoba receives a surcharge, in addition to what this yellow sheet is, of \$975.

Mr. Chairman: That is to get his licence?

Mr. Garriock: That is his driver's licence.

Mr. Chairman: To get it. If they do not pay it, they do not get it.

Mr. Garriock: That is correct. So it is not fair, again--and I am sorry I am using the word, but politically, this looks beautiful. In reality--

Mr. McGuinty: Do not apologize.

Mr. Garriock: I am sorry. In reality it is false.

Mr. Chairman: That may be helpful to the researcher at the end of the committee. Would you have any objection to a copy of that being taken by the clerk?

Mr. Garriock: None at all.

Mr. Chairman: You seem to be reading from a document with reference to the additional costs of licences. We would like a copy of that as well. That may be helpful to the committee also, if you have no objection. We will return the originals to you.

We are going to have to move on, because there are a number of questioners, Ms. Poole.

Ms. Poole: Yes. I have one final point. I notice we have allotted only a half hour for this witness and I find his testimony extremely valuable. I was wondering if we could ask the representatives of Safeco Insurance Cos. if they would mind waiting a bit longer. We could certainly extend our hearing to give them their full presentation as well.

Mr. Chairman: I think they have already caught on to the fact that we are going to be later than 10:30. We will also be quite generous with them, because we do not have anything else until two o'clock.

Mr. Swart: Perhaps I should start with the last comment that was made in my questioning. Am I right in understanding that in Manitoba all penalty rates are assessed against a driver's licence?

Mr. Garriock: That is correct.

Mr. Swart: What we are saying here in the proposal in Ontario--I think you are probably familiar enough with Bill 2--and what we are going to put in is even increased penalty rates which we assess against the car, rather than the driver's licence. Would you not agree that the penalty rate for misdemeanours that is assessed against a driver's licence is a fairer way of doing it than assessing it against the car?

There is a manual put out to every person, and I am sure you people have it, which tells you the penalties you must pay for a certain loss of points. This one is one year out of date, but it has the demerit points going from five--the first five are free--up to 21 and over. They have a different demerit system, but would you not agree that sort of system, because it penalizes only that driver who is bad, is a fairer way of assessing penalties than by putting them against the car, which may serve the family or whatever the case may be?

Mr. Garriock: I am not certain that I understand your question, but I will try.

Again, you are right, in Manitoba the penalty is assessed against the driver's licence and that penalty is paid into the insurance reserves to pay claims. From the Ontario situation, the driver who suffers convictions or losses is penalized through the insurance company's ratings, and those moneys go into the pot. The end equation is that you have got a balanced scale. All you are doing is splitting the moneys differently.

Mr. Chairman: I think what Mr. Swart is getting at is the fact that here a person could be denied access to a car in a situation where one of the drivers--I think that is what you are getting at.

Mr. Swart: It is assessed against the car. It is really the driver most of the time that--

Mr. Garriock: I see what you are getting at. In other words, there are two drivers in the family.

Mr. Swart: Yes, right.

Mr. Garriock: Yes, from that standpoint, I agree.

Mr. Swart: You would agree, too, that this shows up in the financial statement. This money is in addition to the driver's licence fee, which you say is \$50.

Mr. Garriock: Yes.

Mr. Swart: If a young person, let us say, who pays \$450 for his car insurance then pays \$1,000 because he has lost--the rates in this manual do not go that high, but it is a year old--if he pays \$1,000, he would be paying a total of \$1,500. That would be about at the point where he would be losing his licence and he would not be able to drive any more.

Mr. Garriock: That is right.

Mr. Swart: That same young person here, or an older person under a new system, under a new proposal, would be paying far more than that. You probably have not seen the Mercer report, but they would be paying far more than that.

This is done under the driver's licence, so it just seems to me very fair, individual only. That proves that he or she, the bad driver, pays the penalty. I just want to make sure this shows up. I have here the annual report: 5.7 per cent of the income which came into the insurance company there came from the driver's penalty premiums, but the rate on the car does not change. I just wanted to make that point.

Mr. Garriock: Earlier, you and I were discussing that point. I did mention to you that it was one of the advantages I saw within the Autopac system, the demerit point they have on the driver's licence, because it does specifically identify the problem driver individually, as opposed to the family.

Mr. Swart: Before we get into some other questions here, I should have said this first. I am very appreciative of you being here, David, answering our request. I regret you are not speaking for the association, but I suspect that, as a past president, your views are somewhat similar to those of the association. We do appreciate your being here.

I wanted to ask you a side question. I may have misunderstood you, but did you state that the policies all expire at the end of February?

Mr. Garriock: That is correct. There is one common expiry date for every driver in Manitoba.

Mr. Swart: The manual I have says it is their birth dates. Am I wrong?

Mr. Garriock: That is just the drivers' licences.

Mr. Swart: I see. They have to pay those penalties at that time, when they get their new driver's licence.

Mr. Chairman: If you decide not to have a birthday, you can avoid it.

Mr. Swart: I would like to avoid it if I could.

You mentioned, too, that it was political, and nobody denies there are some political implications. You probably know, of course, that that is not purely, solely applicable to government auto insurance. You realize there was a freeze put on auto insurance rates here just prior to the last election in Ontario. It affects more than just the public system. I just throw that in.

Mr. Garriock: I hope you will also appreciate that I am not mentioning any parties. I am just saying "political," because within Manitoba we have had Conservative governments and we have had New Democratic Party governments; as with Ontario, there are changes in climate from day to day. I am just saying that whichever party is in power, it should keep its fingers out of an industry that perhaps it does not know anything about.

Mr. Swart: Might I suggest that if you look at the rate review boards in the United States, you will find that the increases over there, where they have control, are larger after an election has taken place. There is some political implication.

Mr. Garriock: I do not dispute it.

Mr. Swart: There is another point I want to make. You did state, right at the beginning, that you consider the product in Manitoba to be a better product than in Ontario, and then you went on to give your reasons for that.

Mr. Garriock: In certain areas, yes.

Mr. Swart: Yes. I think you made the comment that it was a better product in general than the one in Ontario.

Mr. Garriock: Yes.

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Mr. Swart: Then you went on to say that one of the disadvantages--and I do not suppose any of us disputes this--is there is no competitive choice. But from what you say yourself, would it not be true that without any competitive choice, the public system has then provided a better product in Manitoba than Ontario has with the competitive choice?

Mr. Garriock: I would say that is true, yes, in that one area.

Mr. Swart: There are a number of questions I want to ask you. Talking about the system, when you have only one system, of course, you do not have these kinds of choices. But is it not true that in Manitoba they do have an arbitration system--we do not have this in Ontario--and if you are not satisfied with the settlement you get, you may appeal and they will appoint an assessor, you will appoint an assessor and there can be a third arbitrator, and they will make a decision on this?

Mr. Chairman: I am not sure that is actually correct. I think under most policies in Ontario, if you are not satisfied with your settlement on a collision claim, you can have it arbitrated.

Mr. Swart: Let me leave out Ontario then. I just want to ask the question to you.

Mr. Garriock: The public does have access to an arbitration board, yes.

Mr. Swart: So if you are not satisfied with any of the settlements, you still have the right to sue.

Mr. Garriock: Yes.

Mr. Swart: You talked about the uniform rate there to the repair industry and that you have the full choice. Are you aware that many of the insurance companies here have a uniform rate too and that they will direct you to the repair shop? There has been tremendous opposition from the repair shops here to this practice by some of the insurance companies. I raised this in the Legislature some time ago. They even have right up on the wall the companies where you shall go, or where you should go--I do not want to say "shall"--for repairs to your car.

Mr. Garriock: I am not aware of that, but my response to that would be that if the free enterprise system works properly, I think the companies that offer freedom of choice to go wherever you want could have a field day with that one.

Mr. Swart: It has become general practice with many of the companies. I have numbered all this here, and I do not want to take too long.

You mentioned that the no-fault collision insurance, if I can use that terminology, is applicable to all cars and to the older cars, and there is not much to pay out on the older cars. Would you not agree, because you work in Ontario and in Manitoba, that the rates generally for older cars are substantially lower in Manitoba than they are in Ontario? I am just talking proportionately now; I am not talking about rates generally. The rating manual--we have the rating manual, incidentally, in our office--would indicate that the older cars do have much lower rates, so that is taken into account in that manner, because liability could be the same.

Mr. Chairman: Just for clarification of committee members, in what respect? I had assumed from testimony, if you are talking about the collision side, the price was the same for everybody, and on liability I had assumed the price was the same.

Mr. Swart: This is a package policy of the no-fault we are talking about.

Mr. Chairman: All right.

Mr. Swart: The collision is included in the package of no-fault. That is correct, is it not?

Mr. Garriock: In the no-fault insurance in the Autopac system, if you are talking about a comparison on actual rates, physical damage rates, if you want to look at it from that standpoint, in a territory 1 situation, which is the city of Winnipeg--perhaps I should do the city of Toronto as a comparison, although that is not really fair. I am a territory 11 agent in Ontario. I happen to know it, so I will use it.

Mr. Swart: Just give them for Winnipeg or any one you want to do, the difference between owning a car there that was a 1986 compared to a 1976 or a 1980. What difference would there be in rates?

Mr. Garriock: Perhaps I can give you an example in Manitoba. These are 1987 rates, which are virtually dead and gone now. These do not reflect the rate increases that are coming through. If you owned an older beater car, if you would like to call it that, in a use not going back and forth to work, the premium is \$116 for that beater vehicle. In territory 11 in Ontario, where I happen to have my office, the 01 category in a collision rate group 1, the driving record 6, the six-star driver, that particular portion of the collision premium only is \$62.

Mr. Swart: I am sorry.

Mr. Garriock: Pardon me. I am actually wrong in that because that is at a \$200 deductible, is the \$116. If you took the \$250 deductible under the territory 1 in the Ontario system, it is \$46.

On the other end of the equation, if you were to take a Mercedes--

Mr. Swart: Perhaps I am not making my question clear. I was not asking the comparison between Ontario rates. I was asking for the--

Interjections.

Mr. Swart: We will come to that one.

Ms. Poole: We would like to hear it.

Mr. Swart: I wanted to know, we will say in Manitoba, in Winnipeg, if I lived there, if I owned a 1978 car, the difference in rate between that and the 1988 car. The point I am trying to make is that in Manitoba, from the information I have, there is a greater difference in the rates between an older car and a newer car.

Mr. Garriock: No. That is why I was trying to give you this example.

Mr. Swart: OK. Would you give me the one in Manitoba? The difference?

Mr. Garriock: If I go from the lowest to the highest--and I am just taking the high end of the scale in Ontario, versus the low end of the scale, and the same in Manitoba--in the identical situation, in Manitoba, as I say, the beater vehicle not going back and forth to work is \$116. The 1988 Mercedes is not a good example because it is over \$40,000. If you were to take a 1988 Lincoln valued at \$40,000 in Manitoba, in exactly the same situation, he would pay \$389. You are going from \$116 to \$389.

In Ontario, and I do not know if I have the right rate tables out, but the low end of the scale is \$46 and the highest end of the scale is \$526. I think you are wrong in your comment.

Mr. Swart: I do not think I am because I am talking about the total premium on a 1978 given car in Manitoba versus an 1988 given car in Manitoba. Whether it is a Chevrolet, Mazda or whatever, could you give me those figures? You just gave the collision figures for Ontario.

Mr. Garriock: The figure is on an all--

Mr. Chairman: That was why I interjected. I mean, are you asking from the third party liability side or the collision side?

Mr. Swart: I meant the total premium. You have to get a package out there which includes this.

Mr. Garriock: But it is not really a fair comparison again because we are looking at a premium which is active for less than a month at this point.

Mr. Swart: No. The ones we had in 1986 are the ones they had here in 1986, granted. We recognize that we do not have a new premium rate. I do not know whether the comparison is the same, but can you give us the rate of a given car in Manitoba, the total compulsory rate they pay, which includes that compared to that, a 1978 compared to a 1988, so we can get an idea of the differential they pay to an older car compared to a new one? Do I make my question clear?

Mr. Garriock: If we were to take a 1987 Chevy Celebrity, four-door, six-cylinder, versus--and you want to see what the bottom for an older vehicle would be?

Mr. Swart: The same Celebrity.

Mr. Garriock: I would have to have something. A Chevrolet Caprice Classic?

Mr. Swart: Yes.

Mr. Garriock: Because that goes from 1973 to 1987.

Mr. Swart: OK. Give me the 1978.

Mr. Garriock: We will use a four-door with an eight-cylinder to and from work.

Mr. Swart: It does not matter. As long as it is in the same classification. I am just trying to get an indication of the fact that the rates on older cars are substantially cheaper.

Mr. Chairman: Where are you comparing the cars? Are you comparing the city in Manitoba and Ontario?

Mr. Swart: No, no. I am taking the same older car. I am talking about the difference in rates between an older car in Winnipeg, Manitoba, and a newer car.

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Mr. Chairman: I hope the members are clear because I am not clear on it. Did you not get that when he gave you the collision rate? I am sorry. I just want to be clear.

Mr. Swart: Yes, Mr. Chairman.

Mr. Chairman: Just to clarify it.

Mr. Swart: My question is for the clarification of the committee.

Mr. Chairman: Certainly for me.

Mr. Swart: I want to get the comparison. The point I am making is that older cars generally pay a much lower rate in Winnipeg than newer cars. In fact, that is so in all of the three western provinces. There is some difference here but not a great deal. There is much more difference out in those western provinces. The point that was made was that the older car was paying in the compulsory no-fault package--and you have to take all of that, liability, the no-fault, etc.--more than it should be. They were paying for what they could not collect because it was an old car. I am just showing that in the overall package this adjustment is made.

Mr. Chairman: What I am getting at is, while this gentleman is looking for the information, you already have that, as I understand it, because the third-party liability side is the same for everybody. It only increases depending on the person's licence and convictions. He really gave you the figures already, which is the collision package, the no-fault package.

Mr. Swart: No, the third-party liability, I am sorry, is not the same for everyone.

Mr. Chairman: I thought it was.

Mr. Swart: It depends what area you live in and what kind of car you have.

Mr. Chairman: Yes, other than territorial.

Mr. Swart: What your use is.

Mr. Chairman: All right. I did not get that from this gentleman.

Mr. Swart: I am sure if you want to ask a question afterwards, you can.

Mr. Garriock: With respect to a 1987 Chevrolet Caprice Classic, four-door, eight-cylinder versus a 1973 identical vehicle with the same use and exactly the same coverages, the older vehicle would be \$356. That includes \$1 million liability, including the family protection endorsement, SEF 44, and a \$100-collision deductible. As I say, the older vehicle is \$356. The identical coverage and the same use for the 1987 Chev Caprice Classic is \$617.

Mr. Swart: Thank you. That is the point I was trying to make, that older vehicles, generally speaking, are assessed at a much lower rate. The premiums are much lower than they are for the newer vehicles.

Mr. Garriock: My experience, though, is that there is a bigger spread in Ontario than there is in Manitoba.

Mr. Swart: Somebody may want to ask that question. I am not going to ask you to go into that now, depending on which company--

Mr. Garriock: That is very true.

Mr. Swart: Yes, depending on which company. It is true, is it not, in Manitoba that over and above the basic compulsory insurance you can buy the remainder of the insurance still from the private sector because it is--

Mr. Garriock: That is correct. You can purchase through the private sector the buy-up of the liability over the \$200,000 mark and the buy-down of the deductible, which will be as of March 1 this year, a buy-down from \$350.

Mr. Swart: Yes.

Mr. Garriock: Which is the basic deductible.

Mr. Swart: It is also true, is it not, that very little of that is actually sold though through the private sector, the great majority of it--

Mr. Garriock: I personally am quite active in it.

Mr. Swart: You are quite active in that.

Mr. Garriock: I am quite active in it--

Mr. Swart: But you do not know what the provincial figures are?

Mr. Garriock: --but I am one of the few.

Mr. Swart: You are one of the few.

Mr. Garriock: I am one of the few, yes.

Mr. Swart: Yes. My understanding is that 90 per cent of the supplementary, where they can buy it from the private or the public sector, is bought from the public sector. You would not know what that figure is?

Mr. Garriock: I would say that greater than 90 per cent would purchase their product directly from Autopac.

Mr. Swart: Yes, even where it is in competition.

Mr. Chairman: Mr. Swart, I do not want to interrupt your questioning, but we have five other questioners.

Mr. Swart: I only have one or two, if I may, and I will maybe do the important ones.

Mr. Chairman: Maybe you could ask your colleague's question too at the same time.

Mr. Swart: Just to go to the demerit system, is it not true that you are assessed penalty rates, which are on the driver's licence only because of convictions under the Criminal Code or the Highway Traffic Act? You have to lose points, and there have to be more than five before you have any penalty rate.

Mr. Garriock: That is changing also. It is dropping down to six points as of January 1, 1988. However, it is not just Highway Traffic Act convictions or Criminal Code convictions; it is also at-fault accidents. It is accidents as well as convictions which are contributory.

Mr. Swart: Yes, all right. I am sorry. We had the Consumers' Association of Canada before us a couple of days ago, and it reported that its representatives in the west were extremely satisfied with the systems they have in Manitoba, Saskatchewan and British Columbia. I understand that after a rate increase, that can change. Would you say that is generally true?

Mr. Garriock: Yes, regardless of the rates at this point. As I mentioned, one of the advantages I see within the Autopac system is the merit point system. Again, you are penalizing the driver, not the family, if you will.

Mr. Swart: One final question, if I may. I assume that the rate or commission you get for selling the insurance there, because there is less work to do, is substantially less than it is in Ontario.

Mr. Garriock: Yes.

Mr. Swart: The rate or commission that a person would receive there would probably be about four per cent, compared to about 11.4 per cent or something of that nature, according to the annual report, which I have.

Mr. Garriock: Yes. Your comment is correct. In Ontario the commission income from the sale of automobile insurance is greater than the commission income in Manitoba. But, as I said earlier, in Ontario more employees have to be hired to administer the product within the brokerage.

In Manitoba under our system, the Manitoba Public Insurance Corp. permits an unlicensed person to transact a general insurance document, which I think is deplorable. All of my staff are licensed. As a result of that, you

end up with unqualified, cheap labour at an extremely busy time of the year, when errors can be made, and throughout the balance of the year, fewer people being employed.

I think, as opposed to a commission income, if you were to take a look at profitability on an agent's or broker's financial statement, you would probably be looking pretty much at an even par in so far as profitability is concerned.

I do not think it is fair that commission differences should be brought into this, because there are other implications that come along with the decision-making. You will look at increased unemployment within our sector if there is a change. In my view, you will be looking at a product which would be distributed amongst the public with less quality than what they are getting now, because you would have unlicensed or perhaps unlicensed people administering and distributing that product.

In so far as profits are concerned, which I am in business for, it is the bottom end not the top end; if I do not earn a profit, I have done something wrong. I would like to steer clear of that.

Mr. Swart: I just have to put a supplementary, because in Manitoba the financial statement shows commissions are four per cent of the total expenses and here they are 11.4 per cent.

Mr. Garriock: That is--

Mr. Swart: Would it not be true from what you have said--just let me finish, please--that in fact there is a 7.4 per cent saving in premiums in marketing alone for a product which you have said is better than the product in Ontario?

Mr. Garriock: The only situation--and again I will qualify: When I said that the product in Manitoba is better than the product in Ontario, it referred to the no-fault benefit portions only. That is a small package--a very important package, but a very small part of the overall package.

In so far as our commission income in Manitoba is concerned, it is not four per cent; it is five per cent. We get 10 per cent on the extension coverages, which are the buy-up of liability limits and the buy-downs of the deductibles.

It is not true to say that it is four or five; it is more than that. But you have to keep in mind here too that the--well, I will not go on about this.

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Mr. Swart: One more question to you. Is it not true that some of the insurance is sold through government insurance agencies and that the four per cent which they show in their financial statement, an auditor's statement, could be correct? There are 26 government centres that sell it.

Mr. Garriock: The four per cent you are looking at is the four per cent of the public which purchases its insurance through a government agency. Ninety-six per cent of all insurance products sold in Manitoba are issued through the offices of independent agents and brokers.

Mr. Swart: The financial statement says that four per cent--and that was broken down--is for commissions.

Mr. Chairman: Perhaps we will move on. If you could show that to him, maybe he can explain what it is, because I think he is not agreeing with that comment.

Ms. Hart: We are behind time, so I will try to keep this very brief.

I am interested in the claims side. As you have operated in both provinces, can you comment on how claims are processed, the differences in adjustment of claims, lawyers' involvement? I am putting a lot into one question, but I need to know the difference between the two systems on the claims side, if any.

Mr. Garriock: There really is not that much of a difference other than that in Manitoba there are no independent adjusters adjusting automobile claims; it is all administered by and within the Autopac system. There are government claims centres; if you are involved in an accident, you telephone, make an appointment and visit with an estimator and an adjuster, who take a statement. At that particular point, you are given a claims sheet and you are allowed to go to the auto body shop of your choice.

It is unfortunate that I cannot really answer that question any better than that. I happen to be a six-star driver, so I have not been through the system. I do not know. We only hear back from our clients. There are reputed difficulties, but there are difficulties within the private sector as well. Private or public, there are difficulties that arise from both sides.

One of the problems and one of the more common complaints we receive from our clientele is: "Can you help us? What do we do? We have an obstinate adjuster who will not listen." Again, this is hearsay, but they seem to be a little biased, perhaps, in their adjusting. The adjusters are in the employ of Autopac. They are unionized; I am not saying that is bad, but they are unionized. I do not believe that an adjuster, in a true adjusting situation, should be biased on either side. I believe they should be totally independent, free to give their own opinion and adjust fairly to the public. I cannot say anything bad about them.

Mr. Chairman: I do not want to interrupt, but I think we are getting beyond the scope of Ms. Hart's question. You had asked how claims were settled.

Ms. Hart: I had asked about adjusters, and I continue to ask about lawyers; it impacts on the rates that are being charged.

Mr. Garriock: I had not heard that part.

There have been, and it has been reported, many adjustments made that perhaps should not have been made; from the other side of the fence, perhaps the adjusting can be a little more lax. Look at the frequency of claims; it was reported that one out of every three automobile owners in Manitoba had a claim last year.

It seems the public is very aware of the fact that it is very easy to put an automobile insurance claim through. From one standpoint, perhaps it is not good; from the other standpoint, it is easy to take advantage of. The system itself, I think, if it was managed properly--and perhaps if a system of claims centres were used, where maybe independent adjusters were housed within those claims centres, it would end up as an economy within the industry.

This is all hearsay. I am not qualified really to give you a--

Ms. Hart: I will not go into it any further except to comment that you might hear in Ontario that the adjusters are perhaps a little biased on the insurance companies' side, but I certainly would not know about that.

The other area I wanted you to tell us about is when lawyers get involved. Do you know anything about this, the amount of litigation that is generated or anything that can help us on that?

Mr. Garriock: I really do not. I do not believe there would be any difference at all in the public or the private sector. If members of the public are not in agreement with an award or settlement, then they have the right to pursue it, either through an arbitration board or through the courts, to try to prove their case.

Unfortunately, again, as brokers we do not get involved in this situation, because we cannot and do not adjust our claims, even windshield claims, for example. In Ontario, you can stick your fingers in on the little ones, but in Manitoba we cannot, under any circumstances, be involved in any form of adjustment. We are asked from time to time to sit in as perhaps an unbiased arbitrator for a disinterested party. I personally have never been asked.

I know there are actions that are taken against the Manitoba Public Insurance Corp. by the public. Those actions are clearly illustrated in the legal digest within the province. What the frequency is, I do not know.

Mr. Chairman: I have Mr. Kanter, Mr. McGuinty and Mr. Runciman. I do not want to stifle anybody's questions.

Mr. Kanter: I appreciate the timing. I really have questions in just one area; that is, with respect to rates.

I am just wondering if you could clarify your comments. As I understand it, in 1988, I guess it would be, there is a nine per cent increase scheduled. You referred to rumours that a 17 per cent increase was required, and I think you made a comment that we are looking at unbelievable rate increases in the future. I wonder if you can clarify your view of either where rates have gone or your impression of where they may go in the foreseeable future.

Mr. Garriock: We do know of rate increases that are coming out. How they relate to an individual circumstance we do not know, because we as brokers have not yet received the actual rates themselves. It has been published in the newspapers and through the news media that these rate increases will flow anywhere from, I believe it is, 23 per cent to 74.5 per cent.

Mr. Kanter: Is this in the year 1988?

Mr. Garriock: That is correct. Those rates will be effective within the next month and a half.

In the 1987 renewal cycle, there was a rate increase to the general public of nine per cent, while there were additional increases beyond that up to, I believe, 22 or 23 per cent for commercial operators.

Mr. Kanter: So you are anticipating this year, in 1988, very substantial increases across the board.

Mr. Garriock: Extremely substantial, not only in the premiums, comparing them as apples to apples, but all of our deductibles are increasing by \$150. If you had a \$200 deductible last year, you are going to have a \$350 deductible this year.

There is no insurance for non-factory-installed stereo systems, even though they may form part of the vehicle. For whatever reason, if you were to go to your favourite stereo store, take out the factory-installed radio and put in a deluxe one, that is not covered from dollar one. It is within the opening guidelines that we have here. It would have to be purchased through an extension contract.

On the cost of insuring vehicles beyond what these rate tables show, if you were in a luxury-class vehicle, the rate is \$15 per \$1,000 of insurance, up from \$10 per \$1,000.

Pickup trucks, which had a ceiling of \$15,000 at the same \$10-per-\$1,000 cost over the \$15,000, are now \$15 per \$1,000 over the cost.

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Again, our driver's licences have been increased substantially. They are now at \$44 per year versus the \$22 we had before, with \$35 out of each clear driver, or a driver with merits, of a driver's licence premiums going directly into the Autopac insurance kitty.

As I say, the surcharges on demerit points will be, as of January 1, 1988: If you have six demerit points on your driver's licence, your driver's licence fee will be increased by \$150; and if you have 21 points, your driver's licence fee will be increased to \$975 on an annual basis.

Mr. Kanter: It sounds to me like a kind of double whammy. Your insurance rates will increase, and if you happen to be a bad driver your licence fees, which relate to your driving, will also increase; so some drivers will get in kind of a double-whammy situation.

Mr. Garriock: That is correct. In addition to that, there are surcharges for at-fault accidents which are beyond the demerit system, or merit system, where drivers found at fault for two or more accidents in a 12-month period will pay a surcharge of \$250 for the second accident, \$500 for the third accident and \$750 for the fourth and each subsequent accident, in addition to the penalties on the merit system.

Mr. Kanter: Thank you. That information was very helpful.

Mr. Garriock: Again, I would like to stress, though, that whether it be the public sector or whether it be the private sector, we are still only accumulating dollars on both sides of the equation. The same amount of dollars is being paid out; all they are doing is collecting it differently. That is really all that is happening.

Mr. Kanter: Just one final question: In Manitoba, does Autopac look at anything besides driving record? Do you look at years of driving experience or amount of use, that kind of thing, or do you just look at the driving record?

Mr. Garriock: No. If you are talking private passenger vehicles, there are three categories of rates. A preferred rate would be the equivalent

of an O1 classification in Manitoba, "preferred" meaning that the vehicle does not go back and forth to work.

Mr. Kanter: A use kind of a thing?

Mr. Garriock: It is a use thing, right. The all-purpose use in Manitoba is the equivalent of the O3 category in the Ontario situation, back and forth to work but not being used in business, and then they have the business category, which is the O7 category in Ontario.

Mr. Kanter: There is no consideration, I take it, of either age or years of driving experience in Manitoba.

Mr. Garriock: Not that we are exposed to as brokers, because that has to reflect on to your driver's licence, depending on whether you have merit points or demerit points. As brokers, all we are interested in knowing is: "Does your car go back and forth to work or does it stay at home? Here is your rate." We do not care whether you have just received your driver's licence or whether you are a retired person who has been driving for 50-odd years and has never had an accident.

Mr. Kanter: Would you know in terms of the rate charged for a driving licence--

Mr. Garriock: No, we do not. As agents in the city of Winnipeg, we cannot transact or administer or have anything to do with driver's licences.

Mr. McGuinty: I am reluctant to impose further upon our waiting guests, but I thank Mr. Garriock very sincerely for his very enlightened and unique basis for comparison of the two systems.

I was going to ask him a very simple question, but he has talked around it in many, many of his responses. It was a question regarding his view of comparative rates for a comparable coverage, and I do not think it is possible to give a very clear comment on that.

You alluded, for example, to the surcharge on the driver's licences. Sometimes additional penalties are imposed when one is at fault. I suspect there are other ways of subsidizing the Autopac from other government revenue.

Is my impression a fair one, Mr. Garriock? I do not think it is possible to give a clear, definitive statement--

Mr. Garriock: I agree.

Mr. McGuinty: --in comparison of costs and coverage.

Mr. Garriock: I agree with you.

Mr. McGuinty: And merely to compare rates can be very misleading.

Mr. Garriock: Exactly.

Mr. McGuinty: Thank you very much, sir.

Mr. Chairman: Thank you, Mr. McGuinty. Mr. Runciman.

Mr. Runciman: Thank you, Mr. Chairman. I want to thank the witness as well. It has been very informative and a lot of the information he has brought to our attention is new information. I must say that I am surprised that a lot of this has not been available to us, either through the Insurance Bureau of Canada or the Registered Insurance Brokers of Ontario or the government or whomever. In any event, we appreciate it.

You were not in business when Autopac came into being, I gather?

Mr. Garriock: No, I was not.

Mr. Runciman: Have you any knowledge of what happened in terms of the numbers of brokers who were in business in the province, prior to its coming into place and afterwards?

Mr. Garriock: I came into the industry eight years after the implementation of Autopac and I really cannot fairly give you any kind of comment on that. I do know that there was a transitional assistance package that was available to brokers. I know that as a result of the change within the automobile insurance system, with the automobile insurance portfolios being removed from the private insurers, there was mass exodus from the province of insurance companies that deemed that they could not operate effectively on just the property casualty portions of the general insurance industry without automobile.

As a result, there were serious economic circumstances within our industry because of a lack of market. Today many insurers are coming back into the province. The agents and brokers who are established are earning adequate livings. I do not think there are any of us who are getting rich on it, but we are earning adequate livings. I am not aware that there is a hardship at this point. But to say how many actually closed their doors or how many ceased to transact automobile insurance, I just do not know those statistics.

Mr. Runciman: You mentioned the compulsory physical damage and the licence fees, the funds are going in the back door, if you will, and into the kitty. Are there any other areas? I know we have heard some speculation about gasoline taxes and areas like that, that we may not be aware of.

Mr. Garriock: There was a gasoline tax, but that was abolished, to the best of my knowledge, about two to three years ago. There was a tax on all fuel products which were sold. I believe it was a two cent per gallon or per litre or whatever it was, tax which went--it was a user-pay type of situation, I guess, where, if you put in \$10 of gasoline into your vehicle--

Mr. Runciman: OK, I understand that, but there is nothing presently or currently in operation?

Mr. Garriock: No, not that I am aware of.

Mr. Swart: Just a supplementary, was that not about eight years ago?

Mr. Garriock: It was a while ago. I do not believe it is in effect today. But it was a part of the revenue-producing vehicle, if you want to call it that.

Mr. Runciman: In terms of the structure of Autopac itself, do you know how it is structured? Is there a board of directors?

Mr. Garriock: Yes.

Mr. Runciman: There is a board of directors which is appointed by the government, I assume, through--

Mr. Garriock: I do not know that for certain. I know the government is involved in the appointment of the chief executive officer. I do not know that they are involved in the appointment of any other officer. The Autopac product is administered by the Manitoba Public Insurance Corp., which is a government--

Mr. Runciman: I am trying to speed things up for everyone's benefit here. In terms of the structure and the appointments--and you mentioned the concerns about political interference--what happened prior to the last provincial election? Was there no increase at all?

Mr. Garriock: That is correct. There was no increase. There were rumours of rebates. It is very political. You would have to be there to believe it and to see it, but it is very, very political, and I do not believe that there is a resident of Manitoba who would dispute that.

Mr. Runciman: No.

Mr. Garriock: For example, in the 1987 announcement of rate increases, it was announced that it would be a nine per cent rate increase when it was rumoured that 17 per cent--and I mentioned this earlier--was the amount required to break even, to meet the reserves for claims that were still impending from 1986 without any regard for inflation or any other current trend, because the trend seems to be very claims-oriented right now.

The previous chief executive officer of the Manitoba Public Insurance Corp. refuted the public announcement by the MPIC presently that--

Mr. Runciman: I do not think we need that detail. I certainly do not at this stage.

I just wanted to make a point with respect to political interference. You mentioned at the outset your support for Bill 2. You admitted a hasty reading of it was that it is going to eliminate that kind of political interference. I have reread that section and I guess I have some difficulty in sharing that view. I think the bill as it is structured, in terms of the establishment and composition of the board, is not going to eliminate that.

I think, as Mr. Swart mentioned earlier, this government is not reluctant to interfere in terms of the freeze that was applied. Talk about rumours or hollow promises, the rollbacks that were also assured to the electorate. I can appreciate where you are coming from with respect to the climate you have to operate within in Manitoba, but I think you are perhaps being overly optimistic about what the long-term effects may be in Ontario.

Mr. Swart: Could I have just one supplementary? Just to put this in perspective. I am not denying politics is involved; with a rate-setting board or anything else, there is going to be some politics involved. Was it not true, though, that in 1985 the government did have a surplus? It was a rate review surplus of \$71 million. I have all these figures here.

There was a surplus on operations in 1985, 1984 and in 1983, so the rate increase, although it may be a projected rate increase, should have taken place. They did not have deficits in those years before the election.

Mr. Garriock: That is correct.

Mr. J. B. Nixon: I just want to mention to Mr. Runciman that if he looks at Hansard, December 6, he will see a government member putting out some of the information we have heard today. It may be helpful in some detail.

Mr. Garriock, I do have a question. Do you have any idea of the average value of a claim made against the Autopac system in Manitoba?

Mr. Garriock: I am sorry, I do not.

Mr. J. B. Nixon: Do you have any knowledge of how we might obtain that information? Before you suggest going to Autopac, I will tell you that we have gone to Autopac and they will not tell us. Do you have any other ideas?

Mr. Garriock: I do not know. Unfortunately, the private sector is not involved at all in claims. We were given financial statements, which are prepared, supposedly, by honourable accounting personnel with information received by honourable people. We have no additional information at all, and I do not know where you would get it.

Mr. J. B. Nixon: Are you aware of the ratio between the value of claims in Ontario and the value of claims in Manitoba?

Mr. Garriock: Again, I have no idea. Sorry.

Mr. J. B. Nixon: Are you aware of what it might have been back in late 1960s, prior to the establishment of Autopac?

Mr. Garriock: I do not know; I am sorry.

Mr. J. B. Nixon: For your information, I can tell you we do have that information, because it was a private sector operation then. The ratio of claims between Ontario and Manitoba in the late 1960s was roughly two to one. I just want to put that on the record.

Mr. Chairman: The next time you are asked that question, you will know the answer.

Mr. Swart: I would not take it as gospel. There are such things as the frequency of accidents and how many people carried insurance in those days.

Mr. Chairman: We are getting into gospel; we are really deviating, Mr. Swart.

We would like to thank you, Mr. Garriock, for coming and wish you a safe trip back to zone 11. I am not sure where that is.

Mr. Garriock: You are very welcome.

We apologize to the next presenters for the delay, but sometimes it is difficult to assess, without knowing who is coming before us, what the time element will be.

Safeco Insurance Cos. I see there are four of you. Would you please have a seat and identify yourself and the others for purposes of Hansard? I understand there is a written brief. I am wondering, in the interests of

getting at the heart of what you have to say--and I do not mean this in any disparaging way--whether the historical portion at the beginning is necessary. We have it and each member can read it to determine Safeco's background and history. Maybe you could start it at some later point. Now, that is up to you. I do not want to impede you in any way, shape or form.

SAFECO INSURANCE COS.

Mr. McArthur: I am John McArthur. I am the resident vice-president and Canada region manager for the Safeco Insurance Cos. In the brief you will see that we intended to have Lynda Bradley, our region vice-president of administration, with us this morning. Unfortunately, because of a back injury, not automobile-accident-related, she is unable to be with us. However, I do have, to my left, Ed Nolan, who is our claims manager for Canada; to my immediate right, Alan Hanks, who is our personal lines manager for Canada; and on the extreme right, Mike Valiquette, who is our commercial lines manager for Canada. We also have in the audience, substituting for Mrs. Bradley, Darryl Harper, who is our regional accounting manager, who could be made available to answer any questions in his area of expertise.

I understand your comment about the preamble, and there a number of highlights there that I would like to draw the committee's attention to. First, Safeco has operated in Canada for 60 years and, in 1988, is celebrating its diamond anniversary. We operate three property and casualty insurance companies in Canada: the General Insurance Co. of America, the First National Insurance Co. of America and our largest writer, the Safeco Insurance Co. of America.

The parent, Safeco Corp., is a Washington corporation which owns operating subsidiaries in various segments of the insurance and other financially related businesses. As you can see from the numbers, it is a very large, substantial financial institution.

I would draw your attention to the fact that our Safeco corporate stock is publicly traded and, as a result, our 1987 results will not be released to the financial community until January 25, in about a week and a half's time.

In Canada, the group operates the three companies I mentioned. All of these companies are admitted to do business on a branch basis under a federal charter, and these companies are licensed virtually across the country, although we do business primarily in British Columbia, Alberta and Ontario.

I draw your attention to the paragraph which has some underlining. We make the point there that Safeco is a good Canadian corporate citizen and taxpayer. In addition to the payment of various business-related municipal, provincial and federal taxes, all income earned is invested in Canada. In fact, not one penny has left the country during the past decade, not even a charge for home office overhead. Our assets in Canada as of the end of 1987 were \$301 million.

I mentioned that we operate through independent agents and brokers. Of significance to this committee, I think, is the fact that our group of companies is the sixth-largest writer of private passenger automobiles and the third-largest brokerage market for this line in the province. We are represented by 289 brokers in Ontario and we provide employment for 323 salaried employees in Ontario operating from our owned 140,000-square-foot head office complex in Mississauga and service offices in Mississauga, Hamilton, Kitchener, London, Thunder Bay, Kingston and Ottawa. As a matter of

interest, the largest broker who represents our companies is located in Thunder Bay.

Our 1987 written premiums were \$160 million; 56 per cent of our total writings or \$90 million was automobile insurance in Ontario.

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Unfortunately, our companies have sustained an underwriting loss in Canada during each of the past five years. As you will see from the exhibit, it gets progressively worse and in 1986 the underwriting loss reached a very large number of \$14.8 million. In 1986, the investment income applicable to insurance operations was only \$9.6 million, which resulted in a gross operating loss of \$5.2 million. I can tell you that our results, although they are not published yet, for 1987 were even worse.

Slightly over 80 per cent or \$77 million on a voluntary basis of our total auto writings in Ontario are in our personal lines preferred-risk carrier, the Safeco Insurance Cos., a market for the average to above average risk. Historically, our Safeco auto rates have been in the first quartile of competitiveness among the brokerage companies. Safeco implemented an eight per cent Ontario auto rate increase on February 14, 1987, before the April 23 rate freeze which placed our rates in the third to fourth quartile. Since then, we have lost 15,704 insured vehicles due to the uncompetitiveness of our rates. Despite the fact, we took a rate increase on February 14, and our rates are currently quite uncompetitive as evidenced by the substantial loss of in-force customers. Our Safeco underwriting loss in 1987 was larger than in 1986.

The fact that we voluntarily observed the spirit of Bill 56 by rolling back our rates for young drivers and rebating the premium difference from April 23 further exacerbated an already intolerable operating loss on our Ontario automobile business. Although we can tell you that our results in the fourth quarter were worse than in the first nine months, our 1987 results will not be made public until January 25. The following exhibit compares the first three quarters of 1987 with our results in 1986.

We can review this in more detail if you wish during the question period, but I draw your attention to the bottom line. Our gross operating loss after investment income on our total Ontario automobile portfolio in 1986 was 8.5 cents on the dollar and in the first nine months of 1987 it was a little worse, at 8.9 cents on the dollar. I can tell you that this is of substantial concern to our shareholders, and for me as the manager of our companies it is embarrassing and deeply disturbing.

The major problem is Ontario automobile insurance, and more particularly Ontario auto liability. Because automobile in Ontario is such a large share of our total business, we are unable to subsidize the mounting Ontario automobile underwriting losses at the expense of policyholders in British Columbia and Alberta or other-than-auto customers in Ontario.

Attached exhibit 1 indicates our average paid Ontario bodily injury claim has increased from \$3,755 to \$8,671 or 131 per cent from the end of 1984 to the end of the year just past, 1987. By comparison, the average paid bodily injury claim in Alberta during the same three-year period increased by only 61 per cent. That is bad enough. That is far more than double the rate of inflation during the three-year period, but here in Ontario during that three-year period ending December 31 last, our average paid bodily injury claim increased by 131 per cent.

Our Ontario auto liability results are not atypical of the industry and underscore the crying need for meaningful tort reform. The recently announced 4.5 per cent interim rate relief was woefully inadequate. Double the 4.5 per cent increase would have been less than half enough. An increase similar to the recently announced 22 per cent in British Columbia and the 20 per cent to 74 per cent increase we heard about for Manitoba earlier this morning would have been more realistic.

Attached exhibit 2, prepared by our actuarial function, indicates the need for a 44.1 per cent overall rate increase for Safeco personal lines automobile in Ontario.

Safeco has six basic concerns with Bill 2.

1. The creation of a rate review board with a uniform classification plan does not address the underlying problem of spiralling bodily injury claims costs. Ontario motorists already feel they are paying too much. If the Ontario Automobile Insurance Board follows its mandate of establishing benchmark rates that are neither excessive nor inadequate, Ontario motorists will be faced with shocking increases in the range of 20 to 30 per cent, similar to those being implemented by the public automobile insurance plans in British Columbia and Manitoba. The only alternative is to immediately implement meaningful tort reform to attack the impact of the Family Law Reform Act, prejudice interest, collateral benefits and gross-up.

Safeco also supports the introduction of a modified no-fault automobile plan.

2. While we appreciate the government's motivation for implementing a basic classification system, Safeco does not feel that a uniform classification system is in the best interests of Ontario consumers as it will stifle competition and prevent the development of innovative marketing by individual underwriters.

For example, Safeco is a preferred-risk market. For those who qualify, Safeco takes a unique approach and does not merit-rate--that is surcharge--for accidents, claims or convictions. Under the proposed uniform classification system, Safeco will be forced to penalize many safe drivers, as a result of recent occurrences, with significant premium increases.

3. Clause 19 of the bill provides that classes of risk exposure may be proscribed. It has been made clear in formulating such a classification plan that the use of age, sex and marital status will be eliminated. While Safeco strongly believes that the use of these criteria in automobile insurance rating is not unfairly discriminatory, the elimination of marital status would be less disturbing than the elimination of age and gender.

As indicated in the attached exhibit 3 from the 1986 Ontario Road Safety Annual Report, published by the Ontario Ministry of Transportation and Communications, males under 25 account for only 9.3 per cent of the total of all licensed drivers in the province but they are involved in 21.2 per cent of all accidents. By comparison, females under the age of 25 account for 7.3 per cent of all licensed drivers but are involved in only 7.4 per cent of all accidents.

Under the proposed genderless rating approach, for males under 25 to pay less, mature drivers and females under 25 will have to pay more. In many instances, this will expose mature drivers and females under 25 to significant rate increases in order to subsidize underage male drivers.

Safeco believes such a forced subsidization is unfair discrimination.

Exhibit 4, a study by the All-Industry Research Advisory Council, shows that women drivers younger than 25 were subjected to average automobile insurance rate increases of \$91 to \$274 a year when Montana passed a law prohibiting the use of gender and marital status in insurance rating on October 1, 1985.

4. Safeco is not necessarily opposed to the concept of a rate review board for compulsory coverages, but it is very concerned that the proposal in Bill 2 is, in reality, a rate-setting board.

Safeco would prefer a board similar to the Alberta Automobile Insurance Board. Alberta permits companies to use their own experience and to file their own rates, subject to prior approval by the board. The rate board in Alberta reviews individual companies' rate filings, based on the experience of its insureds and its own expenses, to determine if the rates are reasonable for that insurer.

5. Safeco feels the process for determining benchmark rates, including public hearings, as prescribed in Bill 2, would be slow and inefficient.

While we applaud the inclusion of section 23, which allows an insurer to file rates outside the approved range on an exception basis, we are very concerned that the laborious process, including further public hearings, will result in long delays and the rates will be stale-dated by the time they have been approved for use.

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6. Safeco is concerned that the expenses of the rating board will be borne by insurers, rather than paid for from government revenue. Such funding by insurance companies will result in the additional costs of doing business being passed on to consumers. We ask the question: Do Ontario motorists deserve to be burdened with the cost of further regulation, which is going to limit their options for buying insurance?

In summary, Safeco agrees with the government of Ontario and with Ontario consumers that reform of the regulatory system for the property and casualty insurance industry in Ontario is necessary; indeed, is overdue. However, costs of claims, and therefore the cost of automobile insurance, cannot be fundamentally lowered without major changes to the tort reform system and the introduction of a form of no-fault insurance. Safeco's future in Ontario depends on such reform. We would be pleased to work with the government to achieve these ends.

Thank you for the opportunity to make these observations. We will be happy to respond to any questions.

Mr. Cureatz: One would think, with those kinds of losses, you should have gone into dentistry also. We are wondering about the extent of the losses. In your judgement, do you think those kinds of losses are being experienced by the other large insurance companies in regard to the automobile premiums and losses?

Mr. McArthur: As our brief states, it is my belief that our results are not atypical. Our portfolio is sufficiently large that its results are credible. The industry's results have not been released and will not be

released until late January or early February. In fact, you will not see the Statistics Canada figures until probably the middle of March. The third-quarter Statscan figures were released just before the Christmas break.

Some of you may have seen the December 23 Globe and Mail Report on Business. The headline was "Figures Confirm Insurers' Tough Third Quarter." It had this to say about automobile insurance, and they are talking now about national figures across the country, all lines, both commercial and personal lines, in all provinces:

"Private insurers put 87 cents of every premium dollar into claims on their auto business in the latest quarter. A year earlier, they put in almost 86 cents," not different from the spread we show in our figures. "Operating expenses, apart from claims payments, more than took up what was left of the premium dollar. After operating expenses are counted in, insurers actually lost 11 cents on each dollar of car insurance premiums written in the latest quarter.

"The fourth quarter is usually a particularly bad period for those companies specializing in car insurance. Winter weather makes for poor driving conditions and high claims."

My best judgement is that the companies writing automobile insurance in Ontario, after investment income in 1987, when the final tally is in, will have lost--their stockholders or their mutual policyholders--approximately 10 cents on the dollar.

It is a situation that is completely intolerable and needs to be addressed, and addressed in a much more rapid way than we are currently approaching it.

Mr. Cureatz: The follow-up question for me then is that the impact of the proposed legislation will be obviously financially detrimental to companies such as yours if we are caught in a limited amount of increase, as the Treasurer (Mr. R. F. Nixon) has brought forward, as you indicated in your brief recently. There would appear to be no way out, outside of subsidization of the Ontario automobile owner by the other provinces.

Mr. McArthur: On the backs of shopkeepers in Calgary and senior citizens in Victoria. Our hope is that this process will move forward quickly so that the rate review board can be established and a chairman can be appointed. I can assure you that we will be one of the first in line filing for additional interim rate relief before a new rate classification system is put in place. The alternative is one that I do not really wish to dwell on. I find it too depressing.

Mr. Cureatz: On page 5, you specifically point out the discrimination with regard to marital status, age and gender. I had the opportunity of listening to the Treasurer being interviewed on CBC Radio on Tuesday night, on his car telephone, driving back to Earl's Gulf gas station in Brant-Haldimand-Oxford-Norfolk. In any event, the point he made quite emphatically was that he was not going to alter the proposed legislation about sex discrimination.

I was wondering if by chance you have had the opportunity to ask for an appointment to see the Treasurer or at least to write to him, again expressing your concerns, or were you making your point through this committee?

Mr. McArthur: We had not contemplated presenting a brief to the minister on that point, but it is probably a very good idea. I am assuming the committee would not have any objection to our forwarding this document directly to the minister.

Mr. Cureatz: I think a letter under your letterhead would be appropriate.

Mr. Chairman: Mr. Cureatz will write it for you.

Mr. Cureatz: Yes. I could give you some instructions on the manner in which you should approach it.

Mr. McArthur: Alan Hanks, our personal lines manager, served on an industry ad hoc committee looking at the dislocation that will be caused in the industry if the new rate classification plan is adopted. I believe that representatives of the Insurance Bureau of Canada will be tabling that document with the committee this afternoon. However, Alan, you may have some comments you would like to make on the issue.

Mr. Hanks: I think probably if we could just paraphrase the comment that was made earlier on, the bottom line is we still have a certain amount of claims dollars to be paid out and we have premiums to bring in. If you lower the amount of premiums that a specific class is bringing in, then you have to get those premiums from elsewhere. It only makes sense that if you are going to lower one class that is paying a substantial premium, then that has to be offset by the rest.

I would like to also point out that the government in the past two years, in its Ontario road safety annual report, has twice commented: "Young drivers and inexperienced drivers remain a concern to those responsible for accident prevention. Drivers 16 to 19 years of age are overrepresented in accidents relative to their numbers in the total driver population. Whether this overrepresentation is the result of less skill and experience or because of attitudes which lead to more risk-taking is widely debated.

"Additional factors weighing against young drivers are that they do a greater proportion of their driving in more hazardous night-time and weekend periods than other drivers; they often carry large numbers of potentially distracting passengers...and they are more likely to be driving vulnerable vehicles, i.e., motorcycles" or performance vehicles. "The scenario of a night-time accident involving a young, drinking driver going too fast and crashing with a vehicle full of passengers is repeated too often each year."

That is not my opinion, that is quoted straight out of the 1985 Ontario Road Safety Annual Report published by the government of Ontario. They also continue to comment again that young drivers are still a particular concern in 1986.

Mr. Cureatz: I do not have a copy of that report. As a matter of fact, I do.

Mr. Chairman: I would have thought that would have been your crescendo.

Mr. Cureatz: No, as leading as it appeared to be.

On page 6, on your request for tort reform--and if memory serves me

correctly, that is not going to be the ambit of this committee--I was wondering if you have approached the Attorney General (Mr. Scott) or written to him about the possibilities of re-examining possible legislation for tort reform.

Mr. McArthur: Again, as an individual company, I am embarrassed to say we have not. Perhaps we have been neglectful of our duty on that. But we have been working through our industry trade association, the Insurance Bureau of Canada, and pounding away on this issue, I might add for the benefit of this committee, even before the election of the NDP-Liberal accord, the lash-up two and a half years ago. Throughout the life of that accord government, the industry kept hammering away on the desperate need for meaningful tort reform and we continue to lobby aggressively.

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Mr. Cureatz: The Liberals and NDP like to forget that time period.

Mr. McArthur: It is not that we have not been speaking up, but to answer your question specifically, we have not, that is, Safeco--

Interjection: So would the public.

Mr. Cureatz: So much that we now have 95 Liberals.

Mr. McArthur: I would like the chairman to know that I am apolitical. My maternal grandmother was a very good friend of Agnes Macphail. My paternal grandfather was a Liberal politician in this province and I have voted for both free enterprise parties.

Mr. Runciman: Regrettably, there is only one free enterprise party left.

Mr. Cureatz: We are still trying to find it.

Mr. J. B. Nixon: I believe it was in the fall of 1986 that the Attorney General instructed the Ontario Law Reform Commission to consider the issue of tort reform. Professor Stephen Waddams's report is imminent, we hope around the same time as Mr. Justice Osborne's report on no-fault.

Mr. Cureatz: It might be worth while, Mr. McArthur, to work through your association to proceed in those areas. It does not hurt, I have found, to keep hammering away at such issues individually also in terms of your company.

The last thing is more directed to the ministry, Who is anticipated to be paying for the board? In terms of the concerns of Safeco, is it is going to be automobile policyholders, the companies, or is it going to be from general revenue? Has anybody thought about that?

Mr. J. B. Nixon: The bill addresses that. Revenues for the operation of the board will come from two sources: the general revenue fund and also pro rata levies on the insurance industry, but that is at the discretion of the board.

Mr. Cureatz: It might be a good time, again, to make the presentation to the board.

Ms. Poole: The question I had was actually relating to both the points that Mr. Cureatz raised.

Mr. Chairman: So it is a supplementary?

Ms. Poole: Yes, instead of a question.

Mr. Chairman: Mr. Swart has said that you may ask your supplementary.

Ms. Poole: Thank you, Mr. Swart.

Mr. Swart: The chairman makes the ruling. I am just--

Ms. Poole: Thank you, Mr. Chairman and Mr. Swart. We have just heard a presentation by Mr. Garriock from Manitoba, who supports Bill 2 but says it does not go far enough, because he felt we needed a cap on bodily injury awards.

In the face of the tremendous losses you have had, would not such a cap go a long way to alleviate that concern? As opposed to Bill 2 in itself creating the problem, is not one of the major problems for the insurance industry the major awards?

Mr. Chairman: Just to clarify, Mr. Nixon will tell you there already is a cap. The Supreme Court of Canada put that cap on, of \$188,000.

Mr. J. B. Nixon: In 1978, there was a trilogy of decisions by the Supreme Court of Canada which ordered that the maximum amount of any claim that could be awarded for pain and suffering was \$100,000, and that is adjusted annually by the court for inflation.

Ms. Poole: What about third-party liability?

Mr. J. B. Nixon: Any claim for bodily injury, pain and suffering.

Mr. McArthur: That is true. The cap does not apply to anticipated future earnings loss, for example. I would like to ask Ed Nolan, our claims manager, to respond to your question, Ms. Poole.

Mr. Nolan: I have two sheets here. One you already have, which shows our average annual paid bodily injury claim at December 1987 as being \$8,671. I also have another statistic here which I will be happy to provide to you, in which we look at it and take out some of the larger losses and cap the auto bodily injury claims at \$25,000. Maybe when you are talking about cap, you might be talking about threshold, or whatever; but just to show you the effect of reducing it, or putting a cap of \$25,000, that average drops from \$8,671 to \$5,460.

Mr. McArthur: Just as a matter of interest, and we have not discussed this figure before, so I will be surprised as you at the answer, what has the percentage increase been on the capped basis from the end of 1984 to the end of 1987?

Mr. Nolan: John, I could not answer that question without working it out.

Mr. Chairman: Perhaps when you have it available, you could forward that to the committee within the next three weeks, if you have it.

Mr. McArthur: We would be more than happy to table the exhibit this morning. The percentage can be quickly worked out. I think it is of about the

same relationship as that 131 per cent increase on a capped basis.

Mr. Chairman: Does that satisfy your supplementary? We will take you off the list. Now it is Mr. Swart.

Mr. Swart: I just want to raise one point about Montana. We have had that used quite often. It is my understanding, and correct me if I am wrong, that this is not comparable at all to what we are doing here, that in fact in Montana they eliminated sex and marital status and did not eliminate age. The women had to balance up the men within that young age and that increased it. Even in your own statement here, it says "passed a law prohibiting the use of gender and marital status." So the figures which are used--Am I not right? The women under 25 had to pick up the difference the men were paying and it became equal.

What is being proposed here, of course, is that the loss will be picked up over all age groups, and especially by commencing drivers which again is mostly from the young, but am I not correct in that, that it is not a fair analogy at all?

Mr. McArthur: I would like to ask Alan Hanks, our personal lines manager, to respond. He is more familiar than I am with both the proposed rating plan here and the one in Montana.

Mr. Hanks: Yes, you are correct. They did not eliminate the use of age as a rating standard. However, with the elimination of age here in Ontario, that will create the spreading of the higher risk factor throughout the broader population. In effect, somebody who has driven a long time, relatively accident-free, without convictions, will be picking up a higher premium from what he is paying today.

Mr. Swart: Yes, I understand all that. I just resent a bit using Montana because everyone who has come in has been opposed to the proposal to eliminate age, sex and marital status as used in Montana, which I think you would agree is not analogous at all to what is being proposed here.

Mr. Hanks: I would not go that far. I would just say that--

Mr. Swart: For young women, it is not analogous.

Mr. Hanks: The dollar amounts, no, but the fact that young women will receive the increase is correct, yes.

Mr. Swart: But it is not nearly what this would indicate in Montana where they picked up everything that the young men did not pay.

Interjection.

Mr. Chairman Of course it is.

Mr. Swart: There are some people who really are not very knowledgeable about other places, especially Manitoba, Saskatchewan and British Columbia.

Mr. J. B. Nixon: I have a supplementary to your question. Following along the line of questioning Mr. Swart was pursuing, the intention behind this uniform rating classification system is to place a higher weight in the calculation of premiums on bad driving, convictions and accident frequency, so

that the adjustment will occur detrimental to those who have bad driving records, as opposed to females necessarily. Is that not correct?

Mr. Hanks: Over a long period of time, I think you could probably draw that conclusion. The difficulty lies in the immediate changeover where all of a sudden--you still have to garner that same amount of dollars to pay the claims, no matter what.

Mr. J. B. Nixon: Right.

Mr. Hanks: If you are cutting down somebody's premiums, it has to be picked up somewhere else, no matter what kind of mathematics are played, no matter what kind of formula is worked out. At the outset, people will be paying more.

Mr. J. B. Nixon: Some people.

Mr. Hanks: Some people will be paying more. You are very correct. Some people will be paying more.

Mr. Swart: I want to preface my next question by saying that you have said, as numbers of others have said, that the bottom line is of course that you have to collect enough to pay out the claims. Obviously, as claims go up, we all realize the costs are going to go up as well. Premiums are going to go up--I do not care what kind of a jurisdiction it is--to cover those claims. They usually add in whether that is a government plan or a private system, and they still do have to go up.

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Of course, you would admit that the costs of operation also have a bearing on the level of rates. If you have to maintain 40 per cent of a premium dollar to operate compared to 20 per cent in another jurisdiction, that means rates there would have to be 20 per cent higher.

Mr. McArthur: Ours, if I may, is 29.3 per cent, as you will see from the exhibit, Mr. Swart.

Mr. Swart: Yes, but I was just coming to the exhibit. Of course, like others, that is not your true cost of operation, 29.3 per cent. I wanted to raise this question because it appears that your costs of operation are even quite a bit higher than the average for Ontario, if I take the Insurance Bureau of Canada's figures, which it put out in June of last year, with regard to the 1986 costs. I am talking now about this cost of settling claims, and I say the figure that you gave me--what was the figure you gave me?

Mr. McArthur: It was 29.3 per cent.

Mr. Swart: Yes, and that does not include your cost, which was 14--

Mr. McArthur: It does not include allocated adjustment expense, which is primarily the costs of hiring defence attorneys to litigate these cases--

Mr. Swart: Right, but you have to add to that--

Mr. McArthur: --and all the more reason why we feel there is such a crying need for some meaningful tort reform, because there is a very

substantial opportunity there not only to reduce by putting some caps on or by not permitting some suits, but also to reduce the handling costs. I realize there are a number of lawyers on the panel; I am in the process of funding one's education through the University of Toronto law school, and I think they are wonderful people, but the cost is very high, as this exhibit clearly demonstrates.

Mr. Swart: Yes, but the point I was making is twofold. One is that the actual costs are really what is deducted before you pay back the claims. You have to include that 14.7 per cent for adjusting those claims, which does not go back to the individual in settlement.

Mr. McArthur: No, but it must come out of the pockets of the premium-paying public.

Mr. Swart: Oh, I understand--

Mr. McArthur: My point is that if we had a different tort system in this province, we would not be asking the public to pay.

Mr. Chairman: If Mr. Swart were to come at it a bit more directly, I think what he is trying to get at--

Mr. Swart: What I am trying to get at is the total operating expense, which includes your expense--I am not saying it is not legitimate--of settling claims. All of these things have a factor, and you have just mentioned that. Of course, if you could reduce all of these costs--and I agree with you that there can be a disproportionate cost.

Just incidentally, Mr. Chairman, I have a document which showed me that in the United States now with regard to liability costs--I will not go into this any further, but it was from the head of a major insurance company; I think it is the association of the insurance companies--an amount equal to 75 cents of every premium dollar is used in settling claims. The individual pays a lot of that. If you go into that further, it is a factual statement made by the insurance industry, and we want to get away from that. We are all agreed that you cannot afford those kinds of costs.

What I wanted to ask you specifically is that it would seem that your costs are substantially higher than the average for the auto insurance industry in Ontario. Again, I have the statement put out by the Insurance Bureau of Canada on Ontario's costs. Their costs are 23 cents--let me give them to you--11.6 cents for commission fees. Yours are--

Mr. McArthur: Ours are 13.2.

Mr. Swart: Yes, 13.2. While inflation is incurred, you have 14.3 in 1986.

Mr. McArthur: In 1987, it is 13.9.

Mr. Swart: Yes. Theirs is 11.6.

Mr. McArthur: I have failing eyesight; 13.9.

Mr. Swart: I understand how things fail as a person travels down the road of life.

The overhead they had was 11.4 per cent; they said that was the average.

Mr. McArthur: To save you any further probing, we do pay an additional two and a half points of commission on our preferred risk market.

Mr. Swart: You do?

Mr. McArthur: Yes.

Mr. Swart: Generally speaking, for instance, they say the claims adjustments they paid out were 9.7 cents on the dollar premium earned. Yours are 14.7. Can you explain why your costs appear to be so much substantially higher than the average for Ontario?

Mr. McArthur: I will ask Ed Nolan, our claims manager, to comment on that.

Mr. Nolan: I think if you look at the figures, there is a difference when you look at claims expense allocated and unallocated. Our unallocated is lower than the average, and it is higher than the industry average in the allocated.

We made a decision not to spend our expense money in setting up offices all over Ontario. If you look further into the expenses, you will see that our operating costs for rent or whatever are lower in Ontario than those of our competitors. We pay more in independent adjuster expenses to handle claims in various outlying areas outside of the major cities, where we have our service offices, and that is the reason for the difference.

Mr. Swart: I have just two very short questions. You state a 131 per cent increase in bodily injury claims.

Mr. Nolan: In that three-year period.

Mr. Swart: For that three-year period.

Mr. Nolan: Yes.

Mr. Swart: I do not have the figures in front of me--I know they have been high for all--but is the average for insurance companies in Ontario that high, or is that above the average by quite a little bit? Do you know?

Mr. Nolan: I do not know what the averages for the industry are in Ontario for 1987 because I have not seen the summaries for that quarter.

Mr. Swart: I meant 1986.

Mr. Nolan: For 1986?

Mr. Swart: Yes. That is what yours takes in.

Mr. Nolan: Ours goes from the end of 1984 to 1987.

Mr. Swart: Yes.

Mr. Nolan: They are not atypical, is what I am saying.

Mr. Swart: Finally, from what you have submitted here, both for

yourself and generally with regard to the insurance industry, if we have a rate review board and it should allow a three per cent profit margin, as was suggested by Mr. Kwinter, in your view, would rates have to go up substantially if no changes are made?

Mr. McArthur: The best way to answer that--

Mr. J. B. Nixon: Before you state any references to allowable profits that you think Mr. Kwinter suggested, I think you should table that information. To my memory, and I have been with him for quite some time, he has never made any reference to allowable profit levels and certainly has not cited a figure. He has studiously--

Mr. Swart: I have a quote from the paper.

Mr. J. B. Nixon: If you can just let me finish, Mr. Swart, he has studiously avoided engaging in that discussion.

Mr. Swart: I will give it to you.

Mr. J. B. Nixon: It is a hypothetical question that Mr. Swart is posing to you.

Mr. Swart: I have it in these files. I will provide it for you.

To get back to my question, though, if they do allow that and do not put on any of these caps or take any reforms in claims settlement, is it your view that rates are going to have to go up substantially under the review board?

Mr. McArthur: Unless we have some meaningful tort reform and the introduction of a modified no-fault system, Ontario motorists will face the same sort of usurious premium increases that have just been foisted on the public in British Columbia and Manitoba. There is no question about it in my mind.

Mr. Swart: Perhaps I cannot let that go unanswered. Would you agree that the rate increases in Ontario generally, in 1985 and 1986, averaged about 20 per cent per year?

Mr. McArthur: I do not have those figures available. Alan, perhaps you have a better feel. You might tell him what our rate increases were, at least, during those periods of time.

Mr. Hanks: I do not think I can comment on the industry, because I do not have the information in front of me. I can tell you that in 1985 and 1986, probably around 20 per cent on bodily injury is about correct.

Mr. Swart: I do not mean bodily injury. I meant on premiums, the premium increase.

Mr. Hanks: The overall?

Mr. Swart: The overall premium increase in Ontario, it is generally conceded--statistics show it, in fact--was about 20 per cent per year for two years. I just want to put it in perspective of the western plans; theirs did not go up.

Mr. Hanks: I do not have the information in front of me, so you are

asking me to answer a question without information in front of me. I can tell you, though, like anything, a percentage is on a base. What was the base in 1983 and 1982, and was that a lot lower than in the other provinces?

Mr. Swart: Or a lot higher.

1220

Mr. Runciman: I have two quick questions. Mr. McArthur talked about the future. You mentioned that you do not want to dwell on it. I can understand that, but I think it is certainly a responsibility that our party has assumed to try and make sure the electorate is aware of some of the very serious problems that lie ahead if the government proceeds with its non-free-enterprise solution. Indeed, we are very supportive of your position in respect of a rate review board and significant tort reform.

I guess I am curious, looking at the loss experience since 1982. You have indicated that 1987 was going to be perhaps substantially worse. Perhaps this is something you may not want to comment on, but you do make reference to your concerns about the future. In your role in the company, if you continue to face significant losses, I guess I would have to wonder how long a firm like yours is going to continue to operate in the province. It is sort of staggering to someone like myself to look at the kinds of losses you are incurring.

Mr. McArthur: That is a very good question, and it is one that the stockholders are asking me at this very moment. Safeco is a very large corporation; it is international in scope. We have been doing business in Canada for 60 years. We have staying power. We do not want to make a hasty decision, but we are becoming increasingly frustrated with the length of time it is taking for the release of the Weiler report, for the release of the Osborne report, and for the delay in passing this bill.

As the meat in the sandwich, I can tell you that I am feeling some heat. If at some early point in time we do not see a clear indication of a better scene ahead, then I will have no alternative but to recommend that we take some action that will adversely affect our employees, our customers and our brokers.

Mr. Runciman: And the province of Ontario.

Mr. McArthur: To say nothing of my management associates.

Mr. Runciman: You mentioned on page 5 that you are a preferred-risk market. I know one of the comments in the Mercer report that was tabled with the committee showed some of the projected impact in going with the uniform classification system. It mentioned that a significant number of insurance companies in the province do something similar to what you are suggesting you do here, and that is the unique approach where you do not merit rate for accidents, claimed or convictions.

In effect, you probably have a significant number of your clients who are rated as five- or six-star drivers who, with the new classification system, I gather would be looked upon as misclassified and would be facing some rather significant increases. In fact, I think Mercer suggested up to something like 208 per cent for six-star drivers.

Mr. McArthur: I think Alan Hanks would be a better person to respond to your reaction.

Mr. Hanks: I certainly would not say that 100 per cent of all our insureds would be misclassified under a new rating plan, but what I can tell you is that there is a large majority who have received what you could call an accident forgiveness benefit and still maintain a clean driving record premium that they pay. If we are to reclassify, and it is uniform, and there is no deviation, and there is no allowance for what the prior premium level was or prior classification was, yes, for sure there would be a large majority of our clients who would experience some pretty radical increases in their premium.

I should also point out that it is not uncommon in the industry to offer an accident forgiveness clause.

Mr. Runciman: I think that was mentioned by Mercer.

Mr. J. B. Nixon: Mercer seems to suggest that perhaps the introduction of the accident forgiveness clause into the classification system would alleviate some of that dislocation. Do you agree?

Mr. Hanks: It would all depend on where the benchmark rates were set then, would it not?

Mr. J. B. Nixon: Certainly you would not get the drastic redistributive effect that occurs if you do not have an accident forgiveness clause.

Mr. Hanks: If you were forgiving accidents, yes, I would agree to that.

Mr. Chairman: I would like to thank you very much for having come forward and presented this information to us. The committee will consider this along with all other presentations. Thank you for your indulgence in waiting as long as you had to do.

Mr. McArthur: Thank you, Mr. Chairman and members of the committee.

Mr. Swart: I just want to make a comment again. I think it has become apparent to all of us that it is rather significant that we make a report from this committee, whether it is a letter or not, for dealing with all these matters of capping rates and all those sorts of things, which are meaningless unless we somehow can convey our beliefs and our opinions to the government of this province. I just make that point at this time.

Mr. Chairman: Mr. Swart is raising the point he raised at the outset, that there should be a report, as well as the bill, go to the Legislature. But we indicated at that time that was not possible. As you know, the Legislature could not receive the report. I think the suggestion was made at that time that we could perhaps send a letter or an informal document. Perhaps we could address that at a time when stomachs are not grumbling.

The committee recessed at 12:31 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ONTARIO AUTOMOBILE INSURANCE BOARD ACT

THURSDAY, JANUARY 14, 1988

Afternoon Sitting



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Witnesses:

From the Ministry of Financial Institutions:

Nixon, J. Bradford, Parliamentary Assistant to the Minister of Financial Institutions (York Mills L)

From the Insurance Bureau of Canada:

Lyndon, John L., President

Kelaher, Terry, President, Personal Insurance Co. of Canada

Scott, Wayne, Senior Vice-President, The Co-operators

Kennedy, Alex, Vice-President and General Counsel

Beatty, Gordon, Director of Research and Development, Insurers' Advisory Organization Inc.

From the Association of Canadian Insurers:

Bethell, Robert E., Chairman; Vice-Chairman, Canadian General Insurance Co.

LaPalme, Serge M., Vice-Chairman; President, Gore Mutual Insurance Co.

Kay, J. Hugh, President

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, January 14, 1987

The committee resumed at 2:05 p.m. in room 151.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT
(continued)

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

Mr. Chairman: Pursuant to our agreement that we need not have a representative of each party, we are going to proceed. The first delegation we have this afternoon is the Insurance Bureau of Canada. Perhaps you gentlemen sitting there would identify yourselves for purposes of Hansard and then whoever is going to make the presentation can proceed.

INSURANCE BUREAU OF CANADA

Mr. Lyndon: My name is Jack Lyndon. I am the president of the Insurance Bureau of Canada. There are three gentlemen seated here at the table with me. On my immediate right, Wayne Scott is with the Co-operators group. To his right, Gord Beatty is the director of research and development with the Insurers' Advisory Organization. You have heard of them before. Gord was on our ad hoc committee, which is mentioned in the dislocation study that is before you. To my left is Terry Kelaher, president of the Personal Insurance Co. Roy Elms of the Royal is planning to join us as well.

With Mr. Scott and Mr. Elms, you have the number one and number three writers of auto insurance in Ontario. You have earlier heard from State Farm, the number two writer.

On behalf of its member companies, the Insurance Bureau of Canada welcomes this opportunity to appear before this committee of the Legislature and to work with you to address current difficulties in the auto insurance business in Ontario.

Let me begin by reminding you that the Insurance Bureau of Canada is a national trade association. It represents approximately 80 per cent of the private sector property and casualty insurance companies doing business in Canada. More than 100 company groups comprising approximately 180 member companies are represented by our association.

Since its formation in 1964, IBC has become the voice of the property-casualty insurance companies in Canada. It acts as a liaison between insurers and federal, provincial and municipal governments, consumer groups, the business community and other organizations.

In this role, we are reminded daily that the primary problem with auto insurance in Ontario is that it costs too much. Our industry has been speaking to the question of affordability and the need for changes to the system to help control costs for many years.

As long ago as 1974, we advanced the idea of a no-fault insurance plan, under the name of Variplan, as a means of containing the rising costs of settling claims evident at that time. Variplan was rejected by the governments of the day across Canada.

More recently, we have proposed another form of modified no-fault insurance which we called smart no-fault. This approach was outlined in detail to Mr. Justice Osborne's inquiry, and we are hopeful it will be endorsed in his report. We have also advocated tort reform, reform to the civil justice system in this province, as another approach to containing insurance costs.

These sorts of initiatives are essential if the cost of insurance to the consumer is to be held in check.

Regrettably, Bill 2 does nothing to address the issue of cost. It addresses the pricing and the allocation system, which may be necessary, but one would think the fundamental question of cost would be before this committee ahead of the matter of determining price.

In fact, Bill 2 will add to the costs of the system by creating a new bureaucracy and a costly hearing process. In return for these added costs, consumers will receive at best a mixed blessing. Some will gain, some will lose, but the total amount of premium dollars required by the system will not be reduced.

These concerns with Bill 2, however, do not mean we think the bill has no positive features. It promises to establish rates which are neither excessive nor inadequate. For many insurance companies, that will be an improvement.

The auto insurance industry has not been profitable in Ontario for the last several years, mainly because the costs of settling claims has risen faster than premium income. Between 1982 and 1986, total premiums earned increased by more than 55 per cent while losses and lost adjustment expenses increased by almost 68 per cent. For the bodily injury side of the business under third-party liability coverage, premiums increased by roughly 63 per cent while losses increased by almost 84 per cent.

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While the property-casualty business Canada-wide has shown profits during that time frame, the auto insurance segment in Ontario has not. This is not an acceptable situation, for we do not support the idea that Newfoundland fishermen should subsidize Ontario drivers, any more than we think Ontario home owners, for example, should subsidize western farmers. In an equitable system, each class of business should pay its own way. Hopefully, Bill 2 will enable Ontario auto insurance to operate in this way, but we have grave concerns.

Another major concern with Bill 2, or at least with plans for implementing some of its provisions, is that there is a significant potential for massive dislocation for individual consumers. While we acknowledge that there is some dissatisfaction with the existing class plan, we believe strongly that it would be a mistake to eliminate that plan before a workable alternative is developed. By a workable alternative, we mean one that has been thoroughly thought through, where various options have been carefully costed and where full account has been taken of whatever action the government intends to take with respect to no-fault insurance.

A piecemeal approach is likely to create massive confusion; so is any plan that has to be changed after a few months because it was adopted without adequate study. We have proposed in our submission to you that the board should adopt the superintendent's existing statistical plan until such time as a new plan is available, which we can adopt with confidence that it will serve consumers and the industry well over the long term. Continuity in the transition from one system to another is vital to the consumers' best interest.

We are frankly surprised by the government's readiness to abandon the existing statistical plan. In our submission, we have noted in some detail the care with which it has been developed over the years in response to the wishes of the marketplace and governments. Much of the current impetus for change seems prompted by the desire to eliminate age, sex and marital status as rating criteria. We acknowledge that the government has made that policy decision and we will work with the government in the interests of serving the Ontario driving public.

I suggest, however, that the readiness with which the government decision is endorsed is rooted in confusion between the terms "discrimination," by which I mean a recognition of differences, and "prejudice," which can be taken to mean unfair action based on those differences.

Our submission notes that equity in insurance requires assessment of equal costs for equal risk. From this, it follows not only that equal risks must be treated equally, but that unequal risks must not be treated equally. We argue, in short, that the current system has a lot going for it. While changes may be inevitable, the consumer will be better served if we resist the temptation to make these changes in an arbitrary manner with unreasonable and unnecessary haste.

Our own studies of the elimination of age, sex and marital status concur to some extent with the government's findings. Young female drivers, who constitute a substantially lower risk than young men, will pay more for their insurance if sex is eliminated as a rating criterion. Our brief illustrates the case of an under-25 female driver living in Toronto who, on the basis of a survey of three leading insurers, would face a premium hike ranging from a low of seven per cent to a high of 38 per cent.

Our studies show that just over 42 per cent of the females older than 20 but younger than 25 can expect increases of more than 20 per cent and as high as 50 per cent. This study indicates clearly, in our view, that the transition between old and new rating systems should be approached cautiously so that the industry and the government will be in a position to assess the impact. This will allow us to identify the approach to adjustments in the class system that will maintain equity in it while minimizing the dislocation experienced by individual consumers.

A further concern is that Bill 2 would enable the Ontario Automobile Insurance Board to set rates. It is understood that a benchmark rate would be established and, say, a 10 per cent variation up or down might be permitted, providing a maximum variation of 20 per cent for any class of driver. Differences in current rates frequently exceed 20 per cent. Clearly, therefore, many people now enjoying substantial discounts are going to lose them.

The role contemplated by the board of setting rates, rather than reviewing them, will result in some consumers being penalized and competition being reduced. A rate-setting mechanism will put competitive pricing in a straitjacket, some companies will stop writing in Ontario and innovations, such as the development of the underinsured motorist coverage, which has served the driving public well, will cease.

With your permission, I would like to refer to a few matters that have come up in your hearings earlier this week.

First, in order to provide you with more information on the bonus-malus principle raised by the Consumers' Association of Canada on Tuesday, I refer you to chapter 6 of the 1982 report of the all-industry committee on classification and rating criteria for auto insurance. This still constitutes a valid, basic outline which I am sure will be of interest. It is chapter 6 in that appendix we have distributed.

Second, in a moment my colleague Terry Kelaher will address the matter of the expense factor in the delivery of automobile insurance. Mr. Swart seems to be very interested in that.

Third, I noted earlier comments concerning the auto insurance system in Massachusetts and would point out to you that the consequence of this has been that at the present time 60 per cent of the drivers in that state are insured through its residual mechanism.

Fourth, we are aware of the situation with respect to the cost problems facing taxis, taxi brokerage, in Toronto and other Ontario cities and it is certainly our intention to meet with representatives of that industry to see how the situation can be improved.

In conclusion, I have said Bill 2 does not solve the cost problems of Ontario auto insurance. If the Ontario consumers are to receive any real price benefit, the government must give priority to the introduction of a modified no-fault insurance program, along with reforms in the civil justice system in order to contain costs of our system.

I cannot emphasize too strongly that the real problem facing auto insurers and consumers today is the cost of settling claims. Until those costs are reduced, there can be no significant control of the cost of auto insurance in this province. The provisions of Bill 2 alone will neither contain nor reduce costs.

Our industry recognizes and endorses the government's desire for change. We want to ensure, however, that change results in a better insurance system for Ontario consumers. In the long term, Ontario consumers will benefit most if vigorous competition and a wide variety of choice are maintained within the system.

To this end, the new classification plan contemplated by Bill 2 should not be mandatory. We should not abandon the existing class plan until we are sure we can replace it with something better.

Furthermore, the board's power should be confined to reviewing rates rather than setting them, but whatever its role, we urge you to establish it in such a way that it can operate with minimal added costs having to be picked up by the consumer.

A lot of fine work has been done by the ministry staff in a very tight time frame, and I am impressed. I would like to think we can work with you in the areas of concern and in the interests mainly of the Ontario driving public.

Following Mr. Kelaher's comments, my colleagues and I will be pleased to answer any questions that come along. Certainly, if further items come along, we would be on call to you at the end of your hearings if you want us.

Mr. Kelaher: Basically, I would just like to introduce a few comments and then leave it open for questions, because I suspect most of the interest should come in the form of questions as opposed to a statement.

The difficulty we have as an industry in representing expense figures for Ontario automobile is that they do not exist and are not available to us until the report of the superintendent of insurance is issued. We do not have a total compilation of all the insurance companies that are providing automobile insurance in the province available to us at any given point until that report becomes available.

To offset that, we have undertaken our own surveys within the Insurance Bureau of Canada, which, by the way, does not represent all insurance companies doing business in Ontario, to develop our own statistical information with regard to the cost of overheads, claims expenses and things of this nature in this jurisdiction.

That was basically what I wanted to say. I do not have a statement regarding the actual expense ratio, other than to dispute some of the figures that have been indicated by Mr. Swart, but I would rather that came in the form of questions.

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Mr. Swart: Let me first say I appreciate you people coming in and the brief you have submitted. I agree with what you have said, that the rate review board is not going to do anything to cut rates, on average, for consumers in this province. You have said what winners and losers there could be. We all know that will be determined by how you assess the additional costs which are lost by young people not having to pay so much, etc. You have likely seen the Mercer report and know how it proposes--

Mr. Lyndon: In a sense, Mr. Swart, you have other ways of doing that, saving costs. I have always suspected you had other plans.

Mr. Swart: I am coming to that in a minute; I knew you would be disappointed if I did not.

Mr. Lyndon: I have never heard a question with such a preamble.

Mr. Swart: There are two parts to this bill. I think you recognize that. One is to readjust rates between various classifications and new classifications, and the other part of this bill is, presumably, the rate review board, to save costs to the motorists of this province. In fact, the Treasurer (Mr. R. F. Nixon) has said that when you have compulsory auto insurance, there is an obligation to protect consumers with regard to rates and that is justification for the rate review board.

Mr. Lyndon: I find myself agreeing with you, sir.

Mr. Swart: I thought you would on that one, but I want to go into another dimension, as you would probably think. I have the Insurance Update here from the Insurance Bureau of Canada, dated December 4, 1987. This comment is made by the bureau. I do not believe it says who the writer was, but it is a report which says:

"The NDP answer to this difficulty, government-run auto insurance, doesn't solve the problem. The same costs have to be met whether the insurance business is run by the private sector or the government."

I think we will all agree that the same claims costs may well have to be met, given the same criteria on which claims are paid, but there is another major factor in this, you must agree: the whole cost of efficiency of the system. How much does a motorist get back in settlement for his personal injuries or death or damages to the car? What percentage of the dollar does he get back on that?

I want to say that the system we have in this province--and I use only Insurance Bureau of Canada figures to prove it--is about as costly as it would be possible to devise. We know the report that was done by Woods Gordon back--

Interjection.

Mr. Swart: There is a question, yes.

Mr. Chairman: Would you let them answer the first question then?

Mr. Lyndon: Do we get a washroom break?

Mr. Chairman: You should ask a question, and then perhaps they should have an opportunity to answer that one.

Mr. Swart: I am not sure I have asked the question. I am just dealing with the detail now.

Mr. Lyndon: He has not asked it yet.

Mr. Chairman: Oh, I thought there was.

Mr. Swart: No. I do not think there was. If he feels there is a question there--

Mr. Lyndon: Not yet.

Mr. Swart: --I would be glad to hear his answer. That was a statement I was making. I now want to start asking some questions on this issue.

We had a submission--I see Mr. Fraser is here today; I think I saw him on his way in--from State Farm, and I want to clear this up first. When Mr. Runciman quoted to him a loss of \$300 million--

Mr. Lyndon: It was \$330 million. I was watching you that day.

Mr. Swart: You will know then that Mr. Fraser said, "The loss side you are referring to is the underwriting side, the premiums taken in and the claims paid out in that given year." Then he confirmed later on, under my questioning, that that was the case. Do you agree with that?

Mr. Lyndon: No.

Mr. Swart: You are saying that is incorrect.

Mr. Lyndon: Is that your question?

Mr. Swart: Yes. That is one of my questions.

Mr. Lyndon: The answer is no.

Mr. Swart: The answer is no; that, in fact, this was a net loss, taking everything into consideration, all your revenue from interest; that his statement was wrong in that regard.

Mr. Kelaher: That is correct. Mr. Fraser made an error. The \$330-million estimate of loss was based on after-investment income and insurance operations.

Mr. Swart: Yes, well, it is a pretty serious error when you ask specific questions and get that type of a \$330-million error.

Mr. Kelaher: He apologizes, but if you will recall the statement or the issue of the document that you were referring to, the Insurance Bureau of Canada figures indicated that was \$330 million actual investment income.

Mr. Swart: Yes, you are right. You are absolutely right. That is why I questioned it. I assumed that you were correct.

Can I then take you to that same update, page 40. Do you have it with you?

Mr. Kelaher: Yes.

Mr. Swart: Or Mr. Lyndon, either one? On page 4--

Mr. Lyndon: Can I see what you are quoting from?

Mr. Swart: Yes.

Interjection: No, no, no. This is the Insurance Bureau of Canada.

Mr. Chairman: This is off the record. Perhaps that can be passed, can it. OK? We want to maintain all of this for posterity. Someone is going to read about this some day and we want it all to be there.

Mr. Swart: I want to point out, on page 4, under premiums in Ontario, Insurance Bureau of Canada--I realize these are rounded out.

Mr. Kelaher: Mr. Swart, which exhibit are you referring to? I do not have that page. I do not have page 4.

Mr. Swart: It is page 4 on that--

Mr. Kelaher: I beg your pardon, I do not have it. I have only pages 1 and 2. You are referring to different--

Mr. Swart: Oh, you do not have the statistics in the document, The Property/Casualty Insurance Industry in Ontario, which was sent with the letter, which I referred to, on December 4.

Mr. Kelaher: I do not have it.

Mr. Chairman: He does not have it and he feels that it is necessary to have it to be able to answer the question. Perhaps if we could get a copy and you could move on to something else.

Mr. Kelaher: Go ahead and I will try to wing it.

Mr. Swart: These figures are general. In that you state--you may remember this--that you took in \$300 million in automobile premiums.

Mr. Kelaher: Yes.

Mr. Swart: You remember that. Good. On the next page, page 5, you say you paid out \$2.5 billion in claims. Is that correct?

Mr. Kelaher: Yes.

Mr. Swart: I assume from other data that this included claims adjustments costs?

Mr. Kelaher: That is correct.

Mr. Swart: So, in fact, you paid out--if you take out the 9.7 per cent claims adjustment costs which we got from you people--something like \$2.250 billion, roughly, in actual claims settlement payments, not the claims adjustment. If you deduct the adjusting costs, the money which you paid out in claims which went out to repair cars, etc., was about \$2.250 billion roughly. Would that be correct?

Mr. Kelaher: Until I hear your summation, I have not added it up, but I will take your word for it at the moment.

Mr. Swart: It is close to 10 per cent.

Mr. Kelaher: Okay, yes.

Mr. Swart: You also state in the documents which I have that you made 12.8 per cent on investments in that year. Is that right? Is that 12.8 per cent of premiums received?

Mr. Kelaher: On insurance operations, that is correct.

Mr. Swart: Insurance operations. Well, if you multiply 12.8 by the three billion you come up with 384 million. You then say that you lost \$330 million. Now that means that you have taken in \$3.714 billion. That came into the system: \$330 million you had to borrow from some place, \$384 million interest on investment and \$3 billion in premiums, for a total, rounded out, we could say \$3.725 billion.

If you go to the next page--again I go back to this \$2.5 billion--if you deduct your \$225 million from that, which was claims adjustment costs, you would find that you had paid out actually in settlements, for those damages and injuries and so on, something like \$2.275 billion or \$2.250 billion, in that range. That was in fact what the people got.

But to do that, it cost you people \$1.475 billion in costs to pay out that money, or close to 40 per cent of the premium dollar. I am not talking

about total income. An amount equal to 40 per cent of the premium dollar was in total operating costs.

Mr. Kelaher: No.

Mr. Swart: Then show me where I am wrong.

Mr. Lyndon: Excuse me, we have finally had a question and we finally now have been able to understand my old math professor's logic. Thank you. Mr. Kelaher will now address the question.

Mr. Kelaher: I am not going to go back to your information, because I have not had a chance to go through it myself. I will be happy to do that.

Mr. Swart: Please do. Can I give you the time?

Mr. Kelaher: Let me give you some other numbers, which I think you also have available to you. These will be figures that were also produced by the Insurance Bureau of Canada based on a 22-company survey that was done. As I mentioned earlier, we do not have full and complete results for the industry until the Ontario superintendent's report is issued.

We surveyed 22 of our companies, representing around 66 per cent of the marketplace, to develop expense figures, which indicate that the total expense cost, including claims adjustment figures, etc., is 36 per cent of the premium dollar for Ontario automobile for that representative sample. We suspect, but do not know, because of the composition of the sample, that when all the results are in, that will in fact come out to be slightly lower than that. It will probably be in the area of 34.5 per cent. That includes all expenses related to claims adjustment, as well as overhead costs.

Mr. Swart: Are we still talking now about 1986? The figures we have received from your office and the statement that was put out on June 4, 1987, show more than that. Let me take you through them, if I may. In talking to your Stan Griffin--

Mr. Chairman: Does Mr. Lyndon have a copy of that as well?

Mr. Lyndon: I believe we have a copy.

Mr. Chairman: I am finding it rather difficult, as I am sure the members of the committee are, to follow this, because we do not have copies.

Mr. Swart: Yes. I am sorry, I should have photocopied this, because this is very important.

Mr. Chairman: Perhaps we should have copies of it before we continue.

Mr. Lyndon: It might be helpful.

Mr. Chairman: Perhaps we can recess for five minutes to allow the clerk to make copies of whatever material we are going to refer to.

Mr. Lyndon: Could we have notice of any more of these short, serious questions? This is a very important one. This is the main area that I think you will be getting into, Mr. Swart.

Mr. Swart: It is the main area. I have a few other questions, but in the interest of time, I would even pass those up.

Mr. Chairman: We stand adjourned for five minutes.

The committee recessed at 2:33 p.m.

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Mr. Chairman: We are back in session. I have requested Mr. Swart to take us through those figures again with the document in front of all of us so that it makes sense to everybody, but before doing that, Mr Runciman has something he wishes to say to the delegation.

Mr. Runciman: I just wanted to reaffirm that we had made a request through the clerk to the Insurance Bureau of Canada to table documents with us at the earliest possible point, respecting some of the things I think Mr. Swart is interested in, related to the profitability or lack of same of the industry. I think that is a major question out there, the credibility of the claims the industry is making regarding loss experience.

I think it would be helpful to us if that information could be provided in writing: losses the industry has been suffering and an indication of where the dollars are going, looking at your experience over the past three or four years.

Mr. Chairman: I understand the information, as it was only requested yesterday, is not available today. Would you be agreeable to filing that with us as soon as possible within the time frame of the sittings of this committee and perhaps return to discuss it with us?

Mr. Lyndon: First class. Yes.

Mr. Chairman: Fine. We will proceed.

Mr. Swart: Let me refer, first, to the Insurance Update: it has a letter on the front, dated December 4; it is stamped December 8, when it came in. Within the document called The Property/Casualty Insurance Industry in Ontario, I would like to turn to page 4, headed "Premiums in Ontario." I want to deal only with auto insurance premiums. They are the only thing before us at this time.

Mr. Chairman: Is everybody on page 4? OK.

Mr. Swart: You will notice there, under premiums 1986, "automobile, \$3 billion." These are rounded out; I am sure they are estimates to some extent.

We will go to the other document, which is the letter from the Insurance Bureau of Canada, 181 University Avenue, reference Catharine McGregor, dated Toronto, June 4, 1987. Have you all got this document?

Interjection: Behind the press release.

Mr. Swart: No, that is not a press release. We will be dealing with that in a minute.

You will notice the last paragraph: "IBC said that for every premium dollar collected, 99.1 cents was paid out or reserved for claims, 23 cents was paid out for operating expenses (brokers' commissions and company overhead), three cents was paid to the provincial government in premium taxes"--and this

is the significant one for my purposes--"and 12.8 cents was earned in investment income."

If I am misinterpreting this, please tell me. What they are saying is that for every premium dollar collected, 12.8 cents was earned in investment income. Let us go back to the other document. If you collect \$3 billion in premiums in round figures, as has been said they did, you would receive \$384 million in investment income. Do you all understand what I am saying? Whether it is right or wrong, does everybody understand it?

Interjection: Yes.

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Mr. Swart: They say they lost \$330 million during 1986, and we had that confirmed earlier. That would be a total income of \$3.714 billion. Let us round it out to \$3.7 billion in income. Does anybody disagree with that? That was the income the industry had in 1986, roughly.

Mr. Kelaher: One of the difficulties you are going to have with this comparison, I am afraid, is that the premiums in Ontario that you are referring to, I suspect--I would have to check with the Insurance Bureau of Canada economist--are on a written basis. The percentages you are referring to are based on earned premiums. There will be a distortion as you take it through.

Mr. Swart: That distortion would be relatively small. What you are saying is the earned premiums would be somewhat less than the written premiums.

Mr. Kelaher: The bottom-line end is going to be distorted by four or five per cent.

Mr. Swart: It will. I realize this drop, but that is what this document says, that you had an income of \$3.7 billion dollars.

Let us turn to the next page, which gives the claims in Ontario, automobile again. That is page 5, headed "Claims in Ontario." Have you got it, Mr. Chairman? Claims in Ontario: \$2.5 billion. But they say an amount equal to 9.7 per cent was used in claims adjustments, and that is in the other--I see you are nodding your head.

Mr. Kelaher: It is 9.7 per cent of earned premiums, not claims.

Mr. Swart: That is right, earned premiums. We have premiums here at \$3 billion. They are relatively close.

Mr. Kelaher: I do not think you will find they are.

Mr. Swart: In any event, you can get those figures for us.

Mr. Kelaher: Yes.

Mr. Swart: OK. So if we are talking about that, we are talking about at least \$275 million that did not go out in payments for repairing cars or compensation for injury. It was used for claims adjustment. What I am trying to show here is the money taken in, versus the money paid out in settlements for injuries, damages, etc. In other words, what does the motorist get back for the dollar that he pays in?

If we turn back to the previous page and we find that, say, it is \$2.2 billion, and we subtract that from the income of \$3.7 billion, we come to \$1.475 billion in total that was used internally as overall administration costs, some taxes and all the rest of it. That is money that was not returned. Given the figures I have used, is that correct?

Mr. Kelaher: No.

Mr. Swart: You do not have any argument with that.

Mr. Kelaher: I do have an argument. I cannot accept the figures that you are using, so I cannot accept that you are correct.

Mr. Swart: But they are your figures.

Mr. Kelaher: I am telling you that you are applying earned premium percentages to written premiums, and they distort the result.

I am quite prepared to talk about earned premium percentages with you and to talk in terms of what the actual cost to the industry is on an earned premium basis, but I do not want to mix the two together, because it is going to confuse everybody.

Mr. Lyndon: Three or four per cent is a big difference.

Mr. Swart: Sure it is a difference, but it may be the difference between 36.5 per cent retained by the industry for all its operations and the 40 per cent or 41 per cent. I am using the figures you have provided here, which I do not think is unfair.

Mr. Kelaher: No, but what I am suggesting to you, if we move to your point, is that I am quite prepared to discuss with you the costs of operating, based on the 22-company survey, which all of these figures are taken from, on the basis on which we produced them; that is, on an earned-premium basis. If you want to go to written premiums, I will come back with a completely different set of figures.

Mr. Swart: Of course, you use written premiums here in your statement on investment income.

Mr. Kelaher: No, we do not.

Mr. Swart: What does this mean? "IBC said that for every premium dollar collected"--not earned--"12.8 cents was earned in investment income."

Mr. Kelaher: It means earned.

Mr. Swart: They did not say what they meant.

Mr. Kelaher: It is 12.8 per cent of earned premiums.

Mr. Swart: I would like to have that information on earned premiums. I think we would all like to have that.

In those figures that are given, it took \$1.475 billion to pay out \$2.225 billion. I want to say that is as expensive a system as anybody could possibly devise in the auto insurance industry.

Can I go to the other page? We called, quite frankly, after the letter came in--reference Catharine McGregor, June 4, 1987--which gave the figures on the bottom. We asked for a breakdown on those figures. Stan Griffin--that is the other document you have attached to that--gave us that information we have there. Again, if it is wrong, I hope you will say.

Mr. Kelaher: I am taking a glance at them now. These are based on earned premiums, and I am quite prepared to discuss those with you.

Mr. Swart: What you are saying here is--and correct me if I am wrong; I took these out of the document here, at the bottom--11.6 cents for commission fees on each earned premium, if you will.

Mr. Kelaher: That is right.

Mr. Swart: It was 11.4 cents for overhead, 9.7 cents for claims adjustment, 6.5 cents for loss reserve development and 3.3 cents for taxes. That adds up to 42.5 cents.

Mr. Kelaher: That is correct.

Mr. Swart: Of the earned dollar which is used in total expenses.

Mr. Kelaher: No.

Mr. Swart: OK, tell me.

Mr. Kelaher: The 6.5 per cent for loss reserve development is claims. That has nothing to do with expenses. At the end of each year at the very least and often during the year, each company has to have an assessment of its loss reserves to determine whether it is adequate or not, actuarially and so on. This indicates that at the end of 1986, included in the 1986 figures was an amount of 6.5 per cent of earned premiums, which had to be put into the loss reserves to ensure their adequacy.

Mr. Swart: Right.

Mr. Kelaher: That has nothing to do with expenses.

Mr. Swart: But it was money that did not go back out. That went into loss reserves and was not paid out in settlements. Is that right?

Mr. Kelaher: Just a second. It will be paid out in settlements.

Mr. Swart: But it was not paid out.

Mr. Kelaher: Mr. Swart, all the comparisons that you are using for claims include both paid and outstanding losses. When we talk about claims, we are not talking necessarily about just the claims that are paid, but rather the claims that are both paid and reserved for future payment.

Mr. Swart: I am coming to reserves in a minute. I know there have to be reserves. There were inadequate reserves; so you took 6.5 cents and put it in.

Mr. Kelaher: That is not expenses.

Mr. Swart: It was not expenses, but it was money that was not paid back out to the policyholders in--

Mr. Kelaher: But it will be paid out.

Mr. Swart: Sure, but then there will be another one the following year and so on. It is legitimate. It was not paid out.

Mr. Kelaher: Mr. Swart, a good portion of the claims dollar that we talk about is not paid out in the current year. A good portion of it is reserved for future years, particularly for automobile bodily injuries. That is the same in all jurisdictions.

If you are going to do comparisons, you are again going to confuse us with that because there is no way in the world that we can start slicing the claims figure in half, at this stage of the game, showing what has been paid and what has been reserved. So it is 6.5.

Let us talk about expenses and overheads. The 6.5 should be taken out of there in terms of getting a proper result and a proper figure.

Mr. Swart: I am willing to have your information submitted on that at a later date and on your earned income, but if you take that out of there, you are still talking about 36 per cent.

Mr. Kelaher: Which is the figure I gave you earlier.

Mr. Swart: Which is used as total expenses in the operation--expenses, taxes--

Mr. Kelaher: Including taxes, that is right.

Mr. Swart: If you take a look--and I am not asking you to deny these or accept them--at the western plans, if you take a look at their annual statements, all of which I have here, you will find that the total cost--and I have it at the bottom there--in British Columbia was commissions, six per cent; administration, six per cent; and claims expense, eight per cent, for a total of 20 per cent.

In Manitoba, the commissions were four per cent. We had the man here this morning from Manitoba. Some of you may have been here. He said they have a better product there than they have here. The marketing of it, as you can see, costs four cents compared to your 11.4, as far as commissions are concerned here. That is 7.4 per cent.

Mr. Kelaher: That is 11.6.

Mr. Swart: It is 7.4 per cent of \$3 billion that is paid in--

Mr. Kelaher: Commissions to the brokers.

Mr. Swart: --commissions to brokers. It is quite a saving. It is a \$250-million saving to the people of this province if they had to pay only four per cent in commissions instead of 7.4.

Mr. Kelaher: We believe very, very strongly that the level of services provided to the consumer in Ontario is far greater than that received in Manitoba.

Mr. Swart: I am not particularly arguing that one way or the other. No, I am just pointing out the financial difference.

Mr. Kelaher: I am pointing out why we feel there is a difference.

Mr. Swart: If you could save--

Mr. Runciman: On a point of order, Mr. Chairman: I think Mr. Swart used the four per cent figure this morning. The gentleman indicated it was five per cent, and he also explained the rationale behind it as well.

Mr. Chairman: I think that is correct.

Mr. Swart: Yes, but I should point out that he said they get five per cent commissions. Their actual cost--some of it is sold directly--according to the financial statement, and I am glad to have these, is four cents--

Mr. Kelaher: It is 4.7 cents.

Mr. Swart: They have rounded it out. No, it is four per cent exactly in their commissions in this document.

Mr. Kelaher: They have rounded it the wrong way, sir.

Interjection: We have 4.7 from the same document.

Mr. Lyndon: Mr. Chairman, I thought you heard a very fair assessment this morning. Mr. Swart heard only one side of it. I would just like to make the point that you have continually gone back to the Woods Gordon study and alluded to a 10-point spread in expense slippage within our sector.

Mr. Swart: Yes.

Mr. Lyndon: That thing was done in 1977-1978 based on 1971 statistics. A lot has happened since then in efficiency. I will not argue with you that, on the bare bones, there are not three or four points of efficiency between a public and a private plan, but as you heard this morning--and I think it might have surprised you, as I have watched the monitor--I sensed that the Manitoba broker said--and you have got to look at the other side, those surcharges on the licence. You have got to balance the thing.

Mr. Swart: Those are included. Have you not looked at this enough to know that those are included in income?

Mr. Kelaher: But they are not included in the expenses of collecting them. The expenses of collecting the surcharges on the licences are not there in--

Mr. Swart: There is an amount that is included, which is allotted for the collection of those. Yes, there is.

Mr. Kelaher: No, I do not accept that.

Mr. Swart: We are going to have somebody here from Manitoba and the Insurance Corp. of British Columbia--

Mr. Kelaher: Good.

Mr. Swart: --and all of the Liberal members who are supporting this bill will be able to question them.

Mr. Chairman: We could do a rewind of the recording and do an instant replay.

Mr. Swart: I will finish. I have one or two more questions. I just want to point out, though, that by the very figures you give, compared to the audited annual statements of the western plans, even excluding this 6.5, there would be about a \$500-million saving to the people of Ontario on overall administration costs. That includes marketing cost, claim settlements, the general administration. Given these figures that you have presented and I present, is that not correct?

Mr. Kelaher: It is not correct.

Mr. Swart: Why is it not?

Mr. Kelaher: Do not assume that the percentages that exist in Manitoba would be the same in Ontario, nor are they the same in British Columbia. The overhead cost of the British Columbia operation is in excess of that of the Manitoba Public Insurance Corp. operation, and ours is slightly in excess of that of the British Columbia operation. I do not think you can easily transport those apples from Manitoba, to the oranges in British Columbia to the grapefruits in Toronto.

We admit to the fact that our system, as it currently exists without subsidy, has a slightly higher operating cost than those of the western provinces, without considering the subsidies they have received in the past and without amortizing those subsidies over the period of time we are speaking of. However, we will not agree to the fact that that necessarily can be transported to Ontario, nor would it result in a saving to the consumers here.

Mr. Swart: Of course, if you look at Manitoba, Saskatchewan and British Columbia, they are all in the same area of 20 per cent.

Mr. Kelaher: They are not in the same area, based on these same audited statements that you are referring to. There is a difference of four and a half points between British Columbia and Manitoba.

Mr. Swart: I have the annual statements of them all.

Mr. Chairman: Ms. Hart has a supplementary on that point.

Ms. Hart: It is really just an elaboration of Mr. Runciman's point of order. Not only was the figure this morning five per cent for commissions, but it was also 10 per cent on the supplementary kind of insurance.

Interjection: Yes.

Ms. Hart: In this list under BC, I do not see anything under taxes, which seems to be included in the lists for Manitoba and Ontario. So even on the face of it, it looks as if we are not comparing apples and apples.

Mr. Swart: There is a difference in tax system, of course, in the taxes which apply not only to auto insurance but to other forms of insurance as well. Some provinces say, "Yes, we will tell you that."

Mr. Chairman: That is a very interesting point of order. Mr. Swart, do you have a few more questions?

Mr. Swart: I have just one or two more questions, but I want to re-emphasize that, according to these documents, which we have, your statements themselves, the people of this province could have a saving of something like \$500 million on administration costs alone with a public system. You can argue with that; I am just making that--

Mr. Kelaher: No, we do not accept that.

Mr. Swart: I think the figures will bear it out.

Mr. Kelaher: For starters, you are including taxes, and if they are not paying taxes in British Columbia then how can you assume that by transporting that figure to Toronto, where we do pay 3.3 per cent of the premium dollar in taxes, that is going to be a savings to the consumer?

Mr. Swart: But Manitoba pays 2.6.

Mr. Kelaher: That is my point; it is different. You are talking about completely different jurisdictions with different requirements. I do not think you can transport the figures of one into the other without making those adjustments.

Mr. Lyndon: A point here, two points there, four points here; you add it all up and it is a different system. There are a few lawyers involved in this room. They must realize that the cost of settling claims has a hell of a lot to do with legal expense. If you have a government bureaucracy, a one-stop shop, and you have one person who sits there and adjudicates all the claims, is it any wonder? You could go a hell of a long way with \$500 million in legal fees across three systems in western Canada, Mr. Swart. You know that.

Mr. Chairman: I am sure the people of Ontario have heard those words, but we are on television.

Mr. Swart: Let me proceed. I stand by what I have said, but let me proceed to another question which I think is also terribly important. I would like to ask why the investment income in Ontario is proportionately so much lower than it is in the western provinces. For instance, I am sure you again are aware, and I think this was handed out--you say it was 12.8 per cent on premiums written or premiums earned.

Mr. Kelaher: Insurance operations, yes.

Mr. Swart: In the Insurance Corp. of British Columbia, it was 22.3 per cent; in Saskatchewan, it was 17 per cent; and in Manitoba, it was 19 per cent. Ontario was only 12.8 per cent.

I would like you to tell me whether that is due to the inadequacy of the reserve that you have and, therefore, you are not getting investment on it; whether that is due to poor investment policies; whether that is due to not properly applying all of that money back to the auto insurance system; or

whether it is due to the fact that the premiums out there are so much less that, as you take a percentage of premiums, it shows up as a higher percentage. Is it one of those four?

If not, could you tell me why your return on investment, which is attributed to auto insurance--in asking the question, let me ask a supplementary so you can answer both. When you take the--

Mr. Chairman: Mr. Swart, in fairness, maybe we should give him the first one and then ask the supplementary.

Mr. Swart: OK.

Mr. Lydnon: We do not have an answer right away, other than to say that I think if one were to evaluate and get into the investment policies of the crown corporations, you would find a much higher proportion, and I will not use the phrase "junk bonds," I will use the phrase "local bonds." They tend to be a lot higher.

As an industry, we also have rather conservative investment practices dictated by statutes and we do not have Big Brother to bail us out with a capital infusion.

I do not have the breakdown of the three western plans' portfolios, but I suspect you would find a lot of local municipal issues that we would not, as an industry, be permitted to invest in. If you can obtain those for us, I will certainly give you an evaluation.

Mr. Swart: Much of it is in their annual reports.

Mr. Lydnon: The breakdown of bonds?

Mr. Swart: Yes, a lot of that is in the report. .

Mr. Lydnon: Am I right? You have read it.

Mr. Swart: There is a lot of it in local hydro, in local municipalities, in local schools, in local hospitals.

Mr. Lydnon: A little higher than the average rate?

Mr. Swart: It seems very desirable. I do not have the figures on it, but if they can make that kind of income on their investment, should you people not be in that sort of thing too?

Mr. Kelaher: I do not know whether you are aware of the fact that, for those of us who obtain licences in Ontario or federally, our investment policies are regulated by government.

Mr. Swart: I am aware that the regulations are very strict.

Mr. Kelaher: We cannot invest in all of the things that maybe some of the public corporations can.

Mr. Swart: Maybe not. Then maybe that needs changing too, because if in the western provinces that comes back to reduced premiums, one way or another it should do it in the private system. There is an awful difference between 22 per cent and 12.8 per cent.

Mr. Kelaher: I can assure you we would not object to earning a higher return on our investments.

Mr. Swart: I would think you should not.

I want to ask a supplementary, though, because this is important. In applying the interest back to the auto insurance system, do you in fact keep that money separate or is it prorated on the basis of your business?

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Mr. Kelaher: It is prorated on the basis of the reserves that are invested.

Mr. Swart: For all kinds of insurance.

Mr. Kelaher: We know the reserves for each line of insurance and we know what they are invested in, so we prorate it on the basis of that. I am speaking for my company and not as an industry; Wayne may have a different scenario. Basically, we capture the amounts of money that we would have available to investments such as outstanding loss reserves, etc. and they are allocated on the basis of the--by line; in other words, automobile, property and so on and we maintain--

Mr. Swart: You maintain the division; in other words, all auto insurance money is kept separate in fact on investments, and they get the return on that investment?

Mr. Kelaher: Not specifically in terms of separate pools, but we know the money that is available for investment by line. We invest that and we apply the rate of return we obtain from that.

Mr. Swart: I am not sure I am making myself clear. Let me ask you in this way: In general, according to statistics, the length of time you can invest reserves for auto insurance is longer than for many other types of insurance.

Mr. Kelaher: Yes.

Mr. Swart: Do they reflect the returns you get for auto insurance which you have said is 12.8 per cent.

Mr. Kelaher: Yes.

Mr. Swart: There are other questions but why not go to the others and then maybe I will get a chance to come back.

Mr. Runciman: I know Mr. Lyndon made passing reference to something for which they were criticized rather extensively earlier in the hearings by the Toronto Taxicab Brokerages Association, about the efforts it made with the assistance of the government to arrange a meeting to talk about the development of risk management programs. I wonder if you might elaborate for the benefit of the committee members with respect to those efforts that were made to arrange a meeting. Simply, we would like to hear your side of the story.

Mr. Lyndon: Most certainly, sir. We were contacted six or seven weeks ago and I was asked by the brokerage group to put together a group of chief executive officers and the people I thought were necessary to come up with an available package of statistics to allow them to inject some risk management.

I made an attempt before December 1 to do it and failed. I wanted to get three or four chief executive officers who had been involved in that book of underwriting. Wayne Scott, to my right, was one of them. I also wanted to get our statistical people and our consulting actuary involved in it so that we could give a comprehensive package to them. As Mr. Tory admitted, they are not an easy cover, if I can put it that way. I was unable to pull the players together and they have been critical and I have undertaken to work to my best ability. I was going to say something else, but I will work very hard to put that meeting together as soon as possible. I am sorry we were not able to do it, because obviously--

Mr. Runciman: Essentially, the first approach was made about seven weeks ago and there has not been a refusal to try to do something.

Mr. Lyndon: No, there was a three-week Christmas period that was impossible and I will take the responsibility for all other than that.

Mr. Runciman: Fine. I thought you should have the opportunity to elaborate on that.

Mr. Lyndon: Thank you.

Mr. Scott: I am Wayne Scott from Co-operators. Perhaps I might add to that a bit because my name was taken in vain a moment ago. Co-operators General has carried a substantial book of Metro-area taxi business on its account for some time, not because we were able to do that in a profitable fashion but because we had undertaken to do it at an earlier point and we like to try to work things out as best we can. We are prepared to take the time and to allocate, in the front end, some of the costs which are required to do that.

It is my belief at this point that in some cases there are taxicab risks in this area which are virtually uninsurable except through some kind of residual plan. There are cases where people are running strings of cabs they are not very interested in, except as sources of revenue. The drivers are hired from whatever labour pool they are able to tap, where they can bring people in at the lowest possible expense, pay them minimum wage or whatever, and let them try to make a living on the basis of that and whatever tips they can get. Those people are really pushed to drive very fast and get all the revenue they can out of that taxicab in the 12-hour shift or the 24-hour shift if they have it available to them. I do not think it is possible to work out what some of the taxicab people refer to as reasonable loss-prevention programs under those circumstances. The odds are highly against it.

There are other cases. There are owner-operated cabs. An individual has a taxicab licence and he drives that vehicle. He may have another driver so that he keeps it on the road a couple of shifts a day, but he is interested in what happens to that car. Depending on whether you get into an owner-driven cab or one being operated to get the maximum out of it before the wheels come off, you know what kind of ride you get; you know what kind of seat you are sitting on; you know whether there is a reflection of some interest, concern and pride. It is those things which will determine the extent to which it is possible to insure taxicabs in this market.

At the moment there are too many, far too many, of those which are operated purely for profit by people who do not care very much for that particular business. I think the insurance component has become a significant element of expense for some of those people because of the way they are misusing their own system. I think there can be an improvement, but there has to be an improvement in the way those cabs are operated.

The same parallel I would like to extend, if I might, Mr. Chairman--

Mr. Runciman: As the questioner, Mr. Scott, and we all have a limited time, I think we have heard a significant amount of detail on cabs. If you want to elaborate in some other questioner's time, I would like to proceed with some other areas, because you are answering extensively a question not posed.

Mr. Cureatz: I would like to ask a supplementary on that.

Mr. Runciman: I am not going to allow it, unless the chairman goes along with it. I want to get my questions in, and I have to catch a train.

Mr. Cureatz: May I have a question?

Mr. Chairman: You do have one; I thought you were being facetious.

Mr. Cureatz: No, not at all.

Mr. Chairman: I think perhaps we will get the supplementary out now and then let you go on uninterrupted, Mr. Runciman.

Mr. Cureatz: I will have to be more gracious to you in my next speech in the House.

Mr. Chairman: I will not hang on that promise.

Mr. Cureatz: Have you been successful, in other high-risk areas, in developing a plan with a specified group which has, in the long term, indeed reduced, say, premiums?

Mr. Scott: In the taxicab area?

Mr. Cureatz: No, in some other high-risk areas.

Mr. Scott: We have found it possible to work with some groups in the taxicab area. There are some we are able to continue to insure in a fashion which is satisfactory to them and satisfactory to us, but those are cases where there is some supervision of the extent to which the cabs are operated appropriately.

Mr. Cureatz: There is a developed plan, though.

Mr. Scott: It is possible to work with some people. With other groups, it is not possible.

Mr. Runciman: I wonder about the compilation of industry-wide statistics. I have asked other organizations about this. There was a concern expressed by Safeco Insurance Cos. this morning about the board being established and the fact that by the time consideration is given, some of these statistics are going to be stale-dated and not appropriate to meet the

real needs of the day. The superintendent has indicated that he is aiming towards quarterly reports so they can be on top of everything. Do you think that is feasible? What kind of cost do you think may be associated with it, of which, I gather, you are going to have to share a significant part of the burden?

Mr. Lyndon: I would like to ask Mr. Nixon a question, he being the minister's parliamentary assistant. For starters, have you any understanding of why the superintendent's report has not been tabled for 1985 and 1986? You would think 1986 would be out by now. We have finished 1987. It is unrealistic to think we have not closed off our books yet.

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Mr. J. B. Nixon: I can give you an answer by way of explanation.

The office of the superintendent of insurance and indeed all offices in the Ministry of Financial Institutions, which came out of the Ministry of Consumer and Commercial Relations, were drastically underfunded over a period of years and had limited resources. He just has not had the time or the resources to devote to preparation of that report. He has been spending his time on other issues, some of which are very familiar.

Mr. Swart: The other answer is it was two years waiting under the Conservatives and three under the Liberals.

Mr. Cureatz: You should have supported us then.

Mr. Chairman: Paying attention to more important problems, let us keep the anecdotes down to a minimum.

Mr. Runciman: I do not know if I got an answer.

Mr. Lyndon No. Your question is timely and it is well posed. We do not yet really know. Again, I suppose it is in Mr. Nixon's court. The staff have alluded to, in effect, taking over the statistical agency from us. I do not know whether that is going to happen or not.

We have not addressed ourselves to doing this kind of reporting. The individual company report goes to the superintendent's office. If it is going to be semi-annual, or, as Mr. Weir said, a quarterly report, I think you will find a very large cost factor involved, and you will still have some of the cost associated with the timing, Mr. Nixon, that you are conscious of. It is a big cost item, but it certainly is necessary if you are going to be into what I see as a public utility type of board-rating structure; a big cost item.

Mr. J. B. Nixon: What we have tried to avoid getting into is a situation where we are working at odds with the Insurance Bureau of Canada, particularly with regard to that area where it is charged with the responsibility of administering the statistics program on behalf of the government. I expect it has been part of continuing discussions. Hopefully, the transfer, if it is required, will be worked out during the term and period when we establish the board and its underlying secretariat.

Mr. Runciman: I have a couple of quick questions.

I know the Mercer report was based on some assumptions with respect to the state of Massachusetts in terms of the uniform rating system. I just

wonder if your organization has taken a look at Massachusetts. There has been some discussion about it and the fact that about 60 per cent of the business there now is in the Facility and the insurance companies are moving out of the field. I am wondering if your organization has taken a look at it, because it is probably one of the few jurisdictions that has a comparable setup in terms of what the government is proposing for Ontario.

Mr. Lyndon: I thought you were going to say comparable to a straitjacket, but you did not say that.

Herb Phillips, the senior actuary with the Insurance Advisory Organization, was not able to be here yesterday, as you know. He has done a fair bit of work in the Massachusetts system and has kept current with it.

Allstate is conscious of that province and is cognizant of the Massachusetts thing. It will be appearing before you, I think, in a week's time or two weeks' time. I am not sure of the date. I will certainly ask them to bring the Massachusetts perspective.

Mr. Runciman: I personally would like to see the history of it and what has happened since that format was instituted in the state.

Mr. Lyndon: It is a 20-year history, going back to Commissioner Stone. I would hate to say that we are taking the first step towards it. Mr. Nixon certainly knows my view that it is a calculated risk going the way the government is going.

Mr. Runciman: I share that.

I just wonder about the Manitoba experience. We heard some reference this morning. Of course, it is a state-run operation, but in terms of the insurance companies in Manitoba following the institution of Autopac, there was reference made to the insurance companies moving out of the province. Do you have any information in terms of how significant that was in the province and what it might have meant to them in terms of dollars, jobs and that sort of thing?

Mr. Chairman: Hopefully, it is still a crown-operated system, not a state-operated system. That may come.

Mr. Lyndon: I do not have the data on jobs or on the companies. I would think there are probably 10 companies that no longer have full service offices there. I could look into the numbers of jobs that were pulled back. I will undertake to do that.

Mr. Scott: I would like to mention that there is a difference in terms of the interest of the western provinces in getting into the insurance business. I spent six or seven years in western Canada in the insurance business and had an opportunity to get to know more about those operations than I might have from here in Ontario.

In the west, to a considerable extent, if it is not government run or if it is not a co-operative or a credit union, it is controlled from Bay Street or from central Canada. The interest they have there in developing some businesses of their own tends to have an awful lot to do with the fact that if they do not control it there exclusively, it is going to be people working in Toronto or Ottawa who will be running it. That is not the same kind of consideration that exists in Ontario, which is blessed with the headquarters

of many of the organizations that may sell insurance across the country. It is a major difference.

Mr. Runciman: Mr. Fraser, when he appeared before us, made reference to what the future may hold in terms of the lack of the competitiveness that is going to be out there following passage of this legislation. The chap from Manitoba this morning said the brokers are essentially convenience stores, nothing more than that. I think that ties in with what Mr. Fraser was saying, that you are not going to have the competition in the marketplace, that the major players are going to be around, like State Farm perhaps, with high advertising budgets and high profile and good locations and easy convenience to consumers. A lot of the smaller Canadian companies are perhaps going to disappear. Do you share that concern?

Mr. Lyndon: Greatly. I think it would be appropriate to ask ACI, the Association of Canadian Insurers, which is scheduled to come on when we have finished, and I would be surprised if it did not have grave concerns in that area.

Mr. Runciman: One final question, giving you an opportunity to respond to some criticism made earlier in the week by the handicapped group that appeared before us in respect of their problems in getting adequate insurance and being referred to the Facility and so on. I wonder if you would like to address that.

Mr. Kelaher: I do not really have a pat answer for you because I am not personally aware of any difficulties they have encountered. I can only speak for our organization. We have nothing that prevents handicapped people from obtaining insurance from us. As an individual company, we are not familiar with their difficulties. As an industry, we have certainly not seen any statistics that such has been the case.

Mr. Lyndon: Mr. Chairman, if I may, Alex Kennedy, our general counsel, is sitting back in the second row and he had some views based on the statutory application form, if I could bring him forward for a quick moment.

Mr. Chairman: Is this on the matter of the handicapped? I know we have one more group which is probably going to be equally as long, if perhaps not longer. Members might keep that in mind.

Mr. Kennedy: My name is Alex Kennedy, vice-president and general counsel with IBC.

Mr. Cureatz: My colleague was asking follow-up questions from the presentation, I guess it was yesterday, by an association of handicapped people, about some difficulties in obtaining automobile insurance. Is there some kind of rating in terms of selectiveness of handicapped people? If the person has a valid driver's licence, is that sufficient enough for the consideration of being insured?

Mr. Kennedy: I am personally not aware of any problem. There are two questions on the application form which individuals complete for automobile insurance which relate to the issue of whether they are subject to dizziness or fainting spells, and there is a second one related, I think, to vision problems and heart problems, that type of thing.

We have a division in our office which deals with complaints from consumers, and I frankly cannot recall ever hearing a problem on the issue of handicapped drivers. Mr. Kelaher has referred to the fact that in his company there are no additional rating requirements. I think Mr. Scott or Mr. Beatty might be able to respond for their companies. I have never come across this, and I am frankly very surprised to hear it.

Mr. Scott: I am not aware of a problem, sir.

Mr. Beatty: Nor am I.

Mr. Kanter: I notice in the brief the insurance bureau presented there is a statement that there has been some dissatisfaction with the existing class plan, and I suggest that some might find that a bit of an understatement. I would not disagree with that, and I have a question about the current procedure and also about some proposed alternatives.

In a brief which you have submitted but not read today, with a sort of yellow cover, on page 2, executive summary--I do not know if you will need this for the purpose of my question. It is a general question about the procedure, which we have heard that a number of companies follow, of forgiving accidents of drivers.

I am wondering if you have any comments as to whether that has been done because it is actuarially sound because it is related to a degree of risk if someone has an accident, whether there is little or no chance they will have a subsequent claim or whether that is essentially a marketing device, a marketing tool, whether it is market driven rather than supported by the actuarial or research evidence that presumably your group or other groups gather.

I am particularly interested in this policy as it affects other drivers, whether under the current practices of your companies people who have not had accidents are in essence paying too much because those who have had accidents are being forgiven and paying too little.

Mr. Lyndon: I think it best that individual companies speak to that, because I think you will find different answers in different companies. But if it is eliminated--I think it is one of the choices, so it may have a marketing overtone. I will ask Mr. Scott first. Do you forgive one in your organization?

Mr. Scott: There is generally a tendency, perhaps based on the principle of every dog deserving his first bite or something, if you get into a situation where someone has been claims-free for a period of years and then gets into a scrape, and it is not a big thing and it was not all his fault and what not, you might tend to spend more time, money and effort trying to convince him that what you are doing is fair than in putting him into a different category.

I am sure that actuarially that means somebody who did not have an accident is going to pay a dollar that he did not otherwise pay, but overall, that system has been increasingly popular.

At one time, Co-operators did not follow that system. We adhered very rigidly to identification of whether you had an accident or did not have an accident, and we even levied a charge. We called it a claims service fee, depending on the cost of the accident, the extent of culpability and so on. But the policyholders have generally preferred to move the other way, to the

number of years accident-free. If they have a five-year accident-free rate and they get into one little scrape, they do not want to get pushed down to the no-years accident-free category.

Mr. Kanter: I do not know if you are familiar with the classification system, the draft that has been proposed by the ministry. Are you familiar with that?

Mr. Scott: I have some awareness. I am a member of the advisory committee on that program.

Mr. Kanter: One of the things it is going to propose, as I understand it, is a surcharge for events, including accidents. Presumably it would be a more consistent or rigid or whatever application of the principle. If you have an accident, your rates are going to increase.

Do you want to comment--I suppose you have, in a sense--on your view of some greater change in a person's rates as a result of having an accident?

Mr. Scott: I think the situation that is created--and this is not the first time I have expressed this view--is one wherein the citizen who has been getting a particular price from his insurer is now going to be obliged to pay additional premium, and the insurer's only explanation is: "I am sorry. It was not our idea. The government wants to do it this way." That is not a good position, in my opinion. I think it would be better for the new classification system to recognize that the blacks and whites sometimes are not entirely sharply demarcated and that maybe if somebody now has a forgiveness arrangement, do not take that away from him. If you do not want to give it to people in future, I think that would be fine, but I think taking something away is unnecessary.

Mr. Lyndon: Mr. Kanter, I think you were alluding to trying to find the adjective "tighter," fairer," "purer"?

Mr. Kanter: Well, I initially was saying something that was actuarially sound, where you would relate the risk to the premium. The current system has been a little loose. Some people might say it has been loose in areas like accidents and, on the other hand, it has been extremely tight and rigid in other areas, like young drivers, where young male drivers 24 years of age who have had a good accident record for six or seven years, whatever--I guess seven or whatever years, eight years--

Mr. Lyndon: That would be the extent, yes.

Mr. Kanter: --it has been very rigid with respect to them. The current system, I think we would all recognize, has not been pure.

Mr. Lyndon: I do not run a bottom-line insurance company, but I think it is fair to say that there has been some marketing advantage overtone built into that system. What is proposed is purer, but as Mr. Scott said, it is going to be difficult to rationalize to somebody that he is being asked to put a little more money in the pot because of a tighter system.

Mr. Kanter: In the submission you made, you suggested that more time should be taken, and I guess I am just wondering how much time. We had a discussion before about government reports taking a while, and I certainly concede that as a rather new representative of this government. But I think

there was an announcement--last April, I believe it was--saying that age, sex and marital status were no longer considered a suitable means of discrimination. I think there have been a lot of signals from society, from judicial decisions and just general signals from society as a whole, that some of those criteria, particularly where people cannot help or cannot change those characteristics, would no longer be satisfactory.

I guess I am wondering: You suggest that more time should be taken, that things should be more thoroughly thought out. Given the fairly clear signals from this government and from other parts of society that age and sex are not going to be suitable, when would you be in a position to come up with a better system?

Mr. Lyndon: In collecting statistics, it is the superintendent's statistical plan, and Mr. Nixon--Brad, if I call you Junior, is that--

Mr. Chairman: No, there is no relationship.

Mr. Swart: He does not mind it, but Bob does.

Mr. Chairman: I think Dorothy would be more offended.

Mr. Lyndon: Brad Nixon and I have discussed this at length, and I certainly do not quarrel with the perception that we have been dragging our feet. We started in 1978 being told that we should get rid of age, sex and marital status. We have probably spent \$10 million, and I apologize for spending so much money, but it is not only me. It is the companies in direct and indirect--

Mr. Swart: Was that in the last election campaign? I did not hear--

Mr. Lyndon: But we have in the last several years been collecting a package of surrogates, alternatives, to see if we could do something differently. If we have been dragging our feet, it is because we honestly see age and sex as reasonable predictors.

We can count the numbers in the House. We have got a policy direction that those days are over. We want to work with you on a transition so the public gets a fair shake. You could study this to death and never come up with definitive answers. What we want to do is to make sure that the transition is as smooth as possible, and you have to pardon us if once in a while we still think we are right in a couple of areas. You have told us: "Forget about that. Let's get on with tomorrow." We are ready, willing and able.

Mr. Chairman: Mr. Kanter, we have another delegation to be heard.

Mr. Kanter: Those are my questions.

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Mr. Chairman: Mr. Swart, you said you have some other questions you wanted to reserve. These people are to come back here, as I understand it, after they have filed certain material they promised they would file. Recognizing the time--

Mr. Swart: May I ask one question? It is very short and I think they can answer it in 30 seconds.

Mr. Chairman: All right.

Mr. Swart: Given the submission we had from Safeco this morning--I do not know whether you heard it or not--about the financial situation--

Mr. Lyndon: I saw about half of it.

Mr. Swart: Given the fact that the return on investment, certainly compared to the western plans, is very low and given the fact that we were told here today there are additional funds put in reserve, is there a situation in Ontario whereby the reserves are lower than they should be and there is going to have to be some makeup into those reserves generally?

Mr. Lyndon: I suspect there may be some reserve in shortfall in some areas, but I do not think it is anything that is traumatic, serious or bordering on security problems that the superintendent should worry about. You might ask him. He is the one who bird-dogs the bottom line on behalf of--

Mr. Chairman: An excellent 30-second answer. Thank you very much, Mr. Lyndon. We appreciate your attendance before us and we would appreciate it as well if you would file the information Mr. Runciman asked for.

Mr. Swart: I asked for it.

Mr. Chairman: I am sorry. It was asked for either independently by Mr. Swart or jointly by Mr. Swart and Mr. Runciman.

As to whether you come back or not, I am wondering, members, we are getting very tight in terms of slots to bring people back in. Would the committee be content with the document being filed? We can take a look at it, and if it becomes necessary to bring them back, we can try.

Mr. Swart: In view of the time we have, I think it is rather important, after the discussion we had today, that once we get the one on earned premiums and so on, we have a chance. This is a very important organization. I think we might want to bring one or two back if we can fit them in.

Mr. Chairman: Well, let us look at the document.

Mr. Swart: Let us have the documents. Then if we want to question them, we can do that later.

Mr. Chairman: We will deal with that at that point, after we have seen the document.

Mr. Kelaher: So that we do not misunderstand what was requested, could we have the specific information areas that you want us to cover, before we trot off and do something that is not going to be--

Mr. Swart: We will have a transcript.

Mr. Kelaher: The clerk will arrange for that for us?

Mr. Chairman: It might be better to be done by a copy of the transcript of Hansard. It was stated by the member in the last part.

Mr. Kelaher: Just so we are certain of what we are looking for.

Mr. Chairman: If that is not clear enough, then let us know and we can arrange to have that specifically spelled out for you.

Thank you very much for coming forward. We appreciate it.

Moving on to the next delegation, are they available? Would they come forward, please? Going once, twice. Are they here?

Clerk of the Committee: Yes, they are here.

Mr. Chairman: Mr. Bethell, Mr. Kay and Mr. LaPalme.

We now have the second delegation fully before us. Perhaps one of you would be good enough to identify the others for Hansard.

ASSOCIATION OF CANADIAN INSURERS

Mr. Bethell: My name is Bob Bethell. I am the chairman of the board of the Association of Canadian Insurers and vice-chairman of the board of Canadian General Insurance group. On my right is Serge LaPalme, who is the deputy chairman of the Association of Canadian Insurers and the president and chief executive officer of Gore Mutual Insurance Co. On my left is Hugh Kay, who is president and chief executive officer of the Association of Canadian Insurers.

Mr. Chairman: I understand we are on the blue wallets or whatever. You are going to address us from part of this brief, are you?

Mr. Bethell: Do you wish me to read the whole thing to you?

Mr. Chairman: Perhaps you can highlight it for us. I do not want to limit you in any way. If you feel you cannot highlight it in sufficient fashion, then by all means go through it. I think a lot of what you say will probably be eked out in question afterwards.

Mr. Cureatz: While he is doing that, we can relate to the particular brief and possibly carry on from page to page.

Mr. Bethell: We are an association of Canadian insurers. On page 1, you can see those companies that we have identified that write business in the Ontario marketplace. With one exception, all these companies maintain their head offices here in Ontario. In 1986, we wrote, among us, \$802 million of automobile direct premiums, which is over 25 per cent of the total available business in the province.

Generally speaking, we make the statement that we really do not believe in the unnecessary intervention of government into the insurance business. We believe a vigorous, competitive marketplace is in the best interests of the consumer.

However, Ontario Bill 2, part II, legislates the creation of an automobile insurance board and it is empowered to establish and review rates. The Association of Canadian Insurers is vigorously opposed to this principle. We believe it will lessen competition, eliminate initiative, freeze coverages to the detriment of the public and increase the cost of operations.

The contrary position we take is that companies should be allowed the ability to introduce cost-saving prices that are reasonable and supported by good statistical evidence. In any event, if Bill 2 is inevitable, we believe it should only address those coverages that are mandatory by law, which are the bodily injury, property damage and accident benefits.

We understand the desire of government to ensure that rates charged to the public are justified as being fair and equitable. To this end, we would fully co-operate with any board that is established to review and approve rates. It is our belief that a rate review board, rather than a rate-setting board, would provide all the needed protection for the insurance public and still give the companies flexibility to innovate and compete to the ultimate benefit of the customers.

One thing we are strongly of the opinion of is that the board, when it is constituted, should have people appointed to it who have a sound knowledge of the principles of insurance and, particularly, of how automobile insurance works.

The bill goes on to legislate that the Lieutenant Governor may prescribe the classes of risk exposure and the consideration in determining premiums. The effect of this provision is to create a mandatory classification system, and we are strongly opposed to this. The committee should be aware that the vast majority of drivers in this province are presently enjoying low rates of premiums due to their individual driving records and to being in classes with proven low exposure to loss.

With the introduction of a new classification system, many drivers could be seriously disadvantaged and it could result in some widespread anger by those segments of the insurance public that are adversely affected.

The combining of risks in a single class with widely varying loss costs does create an illusion of lower prices for some, but in reality it forces subsidization of those with higher exposure to loss. For example, young female drivers under 21 have a bodily injury-property damage loss cost of \$418, while male young drivers under 21 have a loss cost of \$867, more than twice the amount. Combining these two classes is highly discriminatory against young female drivers, and, as with any other cross-subsidization, could lead to unnecessary market dislocation.

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It appears to us that a major thrust of Bill 2 is the elimination of age and sex as rating criteria. We do not believe the use of these criteria in the present class plan is unfairly discriminatory nor, in our opinion, is it a violation of the Canadian Charter of Rights and Freedoms. We believe these are reliable and proven criteria and should be maintained in any automobile classification plan.

We are attaching to this brief a submission made to the honourable Monte Kwinter, On the Place of Age, Sex and Marital Status in the Rating of Automobile Insurance, for your information.

In the event, however, that the government is determined to proceed with the proposed rating program and classification system, we state quite emphatically that an adequate and reliable statistical base is essential to the viable operation of any such program.

We recommend that the present classification system be maintained until an adequate new statistical base has been developed. We believe this will take a minimum of three years. If a new class plan is to be introduced, we also recommend that it should be phased in gradually to ensure that any possible disruption will be minimal.

We also recommend that, in addition to any rates or ranges of rates set by the board, provision be made for any insurer or rating bureau to apply to the board for approval to use criteria and/or premiums outside of such sets of ranges and, further, that flexibility be permitted for any insurer or group of insurers to apply to the board for approval to combine or add certain classes or make such modification as the board may approve.

This will ensure that competition and innovation remain in the marketplace.

Before leaving this subject, we should also point out that the present plan is country-wide and there will be considerable increased costs if the industry is required to maintain a separate class plan for Ontario only. Additional costs will also result from the necessity of companies to reunderwrite their entire book of business. These costs must ultimately be borne by the automobile insurance public of Ontario at a time when they are looking for cost containment.

It is our belief that the major reason for Bill 2 is to control the costs of the automobile insurance product. We may say that we are in complete agreement with this sentiment. However, we also have to say that we do not believe the bill addresses the underlying reason for the high cost to many consumers of automobile insurance.

We are concerned about legislation enacted in the past few years and with court decisions which have severely increased the costs of claim settlements. Such things as prejudgement interest, family law reform, collateral benefits, gross up for tax, and joint and several liability are all areas that should be reviewed for possible modification. Both we and the bar associations are in agreement on this.

In addition, we recommend that consideration should be given to modification with respect to tort reform and the introduction of the modified no-fault plan as recommended by the Insurance Bureau of Canada. This will ensure fast and effective relief to insurance claimants without the necessity of recourse to the courts.

We are attaching to the brief a submission by the Association of Canadian Insurers, To the Inquiry into Motor Vehicle Accident Compensation in Ontario, dated April 1987, for your consideration.

While automobile insurance reform has an effect on all insurers operating in Ontario, we, as purely Canadian-owned insurance companies, have a unique interest in the maintenance of a stable market in this province. Unlike foreign insurers, who are domiciled in other jurisdictions, we cannot readily withdraw our services and retire to another environment. Should new programs be flawed, we will suffer far more severely than many of our competitors who may regard Ontario, which to us is a major market, as less significant.

The progress that has been made in the past few years by native Canadian companies, both large and small, to increase their penetration of market share in Canada, could be seriously impaired. In fact, if the Ontario market were to

be diminished in any way through government action that may be taken without thoughtful consideration of the consequences, it could become a threat to our survival.

In presenting this brief, we should point out that we are handicapped by the fact that we have no definitive knowledge of what the proposed class plan will include, nor are we aware of what the regulations will be for the operation of the automobile rating board.

It would also have been helpful had we had knowledge of the recommendations for changes to the insurance industry, which are expected in the reports of Mr. Justice Coulter A. Osborne and Professor Waddams, project director for the Ontario Law Reform Commission.

When these are made available to us, we will be in a better position to make more exact recommendations.

Mr. Cureatz: I appreciate your going through the whole brief. It was very worth while to me. On page 7--I might have missed something or maybe it is so simple that I just cannot see it--you said in 3(e), three quarters of the way down the page, "Before leaving this subject, we should also point out that the present plan is country-wide and there will be considerable increased costs if the industry is required to maintain a separate class plan for Ontario only." I am not sure about "the present plan is country-wide."

Mr. Bethell: The present statistical plan to which all companies in Canada report is a country-wide plan, and the introduction of this new classification plan will be totally separate.

Mr. Cureatz: I see, to Ontario. How does that match up with Manitoba and British Columbia?

Mr. Bethell: Of course, we do not report in Manitoba or Saskatchewan or B.C. now, just where there is private enterprise.

Mr. Cureatz: I see. OK.

On page 8--this has been brought up before, and I have not asked it but I have been spurred on because it has brought up so many times--is the effect of the Family Law Act. I am not clear how the automobile insurance policies are reflected in the Family Law Act.

Mr. Bethell: It has had the effect of increasing to a substantial degree the number of claimants to whom losses are paid.

Mr. J. B. Nixon: Perhaps I can help.

Mr. Cureatz: Could we get a little elaboration from you?

Mr. J. B. Nixon: Sections 60 and 61 of the Family Law Act create the statutory cause of action for relatives of an injured party, and they can claim damages for loss of care, companionship and guidance. Often you get a situation where a--

Mr. Cureatz: A child.

Mr. J. B. Nixon: If a child is injured or killed in an automobile accident, parents can claim for loss of care, companionship and guidance.

Interjection: Grandparents.

Mr. J. B. Nixon: Grandparents, nieces and grandchildren.

Mr. Cureatz: It is clear now. Thank you.

Mr. Chairman: It looks as if you are on, Mr. Swart.

Mr. Swart: I just want to ask a bit more about your association, because I am not terribly familiar with it. Does this parallel, to some extent, the Insurance Bureau of Canada? Are some of the insurance companies in both organizations? What would be the difference in thrust, if any, between this and the Insurance Bureau of Canada? I would just like to know a little bit more about the reason for your organization.

Mr. Bethell: All of the companies referred to on page 1 are members of the Insurance Bureau of Canada, which is a trade association.

The Association of Canadian Insurers is a group of companies that are owned by Canadians specifically, and we provide services to the members, such as actuarial services, underwriting committee work, etc. The thrust of our organization is the protection of the Canadian insurance industry in Canada.

Mr. Swart: I see.

Mr. LaPalme: Perhaps it is reasonable to say that Canada is our only harbour. We have no other safe harbour. We stand to lose or gain as to how we operate our businesses in Canada.

Mr. Kay: The Insurance Bureau of Canada is also made up of many overseas companies, British, American and other foreign companies, so there is a slightly different impact. We are concerned with the effect of legislation on Canadian companies as Canadian-owned insurers.

Mr. Swart: Do you have a research section? I presume you do.

Mr. Bethell: Yes.

Mr. Swart: The Family Law Act was raised. The lawyers' association--I think it is a fair committee--has indicated that is not really a major factor at all in the increase in claims settlements. Have you done any study on this? Can you give us any figures and facts?

Mr. Bethell: I doubt that we can give you any definitive figures at this point in time. I would not want you to think that we are suggesting the Family Law Act by itself is the reason for increased claim costs, but when you add it together with all the other factors, it is a factor in the increase.

1600

Mr. Swart: We could agree with you--by "we" I am referring to myself and the NDP--on a number of these ways of reducing the costs of settlement, especially the gross-up and the presettlement interest. Possibly action should be action, and we are largely in agreement with you on that.

You are rather strongly in opposition to the abolition of age, sex, marital status and, I suppose, handicapped status too perhaps; but I presume you would agree that any government would have the right, if it felt it was

socially desirable, to implement that kind of a policy. Of course, we do that all the time, such as equal pay for work of equal value so there is not discrimination against women. Granted, it is more costly to certain groups in our society, but we say it is still socially desirable.

I would say it is also socially desirable not to discriminate on those grounds. Of course, it has not been, as you well know, in the western plans, in Saskatchewan for 41 years. Even though you are opposed to it, I presume you would recognize the right of a government, if it thinks it is socially desirable, to proceed with that.

Mr. Bethell: We would never suggest that if the government introduces it, we would not comply with it.

Mr. Swart: No, I was not suggesting that.

Mr. Bethell: We do feel that the reliable statistics--

Mr. Swart: I am going a little further than that. There are some times when you come up against the hard facts of risks and statistics and what is socially desirable that you may have to get.

Mr. Kay: I think you are asking two questions, Mr. Swart. One is whether we think the government has a right to do it, and the answer to that has to be yes, the government has a right to do a lot of things. But that does not mean to say we agree with the government that it is socially desirable. We do not agree, and I think a lot of young drivers and more mature drivers who find they are paying more money will agree with us.

Mr. Swart: This bill, as you know, has two parts. That is one, the whole issue of reclassification of rates. I am one of those who thinks this reclassification is desirable with regard to the rate control board. You also have some argument for the necessity of it and the value of it afterwards or the benefit of it.

I agree with you. I think it was just window-dressing for the last election, but on the matter of the classification, I think there is some real meat in this and we have to be balancing this off as we have not done before. The insurance system in this province has been set on risk factors and I guess not much else--no social invention. But I presume you would not agree with me on that.

Interjection: No.

Mr. LaPalme: If this is a question, which I am not too sure it is, I think it is a statement--

Interjections.

Mr. LaPalme: Having accepted the statement, our brief really addresses the issue of age and sex. I think marital status is something we could live with. If it had to be abolished, I think we could live with that in today's world.

Our difficulty is in finding adequate surrogates for age and sex. It has taken time to develop the statistical data which today confirm whatever base premiums are developed. If it is the desire of government to find surrogates for age, our great difficulty is in finding surrogates for genders or

surrogates for sex, because there have been sufficient studies, I believe, drawn to the attention of Mr. Swart and others and conducted by the Traffic Injury Research Foundation of Canada, suggesting that there are driving habits which identify with gender. Our problem is in trying to find surrogates that would address that very nature of beings.

In other words, it has been our view time and time again, and I think correctly so, that there are certain driving skills and the typology of driving a vehicle is different as between males and females.

Mr. Chairman: Has the matter ever been tested under subsection 15(1) of the Charter of Rights?

Mr. LaPalme: With respect to--

Mr. Chairman: With respect to the fact that prior to this bill the rates for a male under 25 were charged at a greater rate than for a woman.

Mr. Bethell: It has been tested under the human rights legislation--

Mr. Chairman: It has never gone to the Supreme Court of Canada under subsection 15(1) of the Charter of Rights and Freedoms.

Mr. Bethell No.

Mr. Chairman: I would suggest to you that might very well be the result, that the Supreme Court of Canada would order it. I guess that does not change your view.

Mr. Bethell: The legal opinion we have had is that we would not be in violation of it, but I am sure you could get a legal opinion to the contrary.

Mr. Chairman: It will take a long time to find out. I just wanted to inquire. I knew it had been dealt with under the human rights legislation, and I think it went as far as the Ontario high court, but not beyond that.

Mr. Sola: On page 4, under "classification plan," I am having a little bit of a problem digesting the third paragraph. You comment, "The committee should be aware that the vast majority of drivers are presently enjoying the lowest rates of premiums due to their individual driving records and to their being in a class with proven low exposure to loss."

The reason the government introduced Bill 2 was in answer to the outcry against rapidly escalating rates in the last couple of years.

This statement seems to be at odds with some of the other groups that made their presentations and admitted that the rates were high, although they had reasons for the high rates. The rest of your recommendations and your observations are consistent with practically every other group that has sat before us, but that statement seems to be a little bit out of whack with reality.

Mr. Bethell: Leaving on one side whether rates are high or not, approximately 70 per cent of the insuring public is insuring the five-year accident-free rate, which is the lowest rate available under our present system.

Mr. Sola: So this statement refers to these five-star and six-star drivers.

Mr. Bethell: Right. Presumably, with the introduction of a new classification plan, some of those people will have rates increased while some will have them lowered. We do not know which ones they are, but presumably that is the effect of it.

Mr. Sola: The statement is a little bit vague in where it is aiming at; so, after that clarification, thank you.

Mr. Bethell: I am sorry.

Mr. Sola: Thank you.

Mr. LaPalme: With your permission, Mr. Chairman, while it is true that a purpose of this bill is to address the actual cost of automobile insurance in Ontario, may I suggest that attempting to find subsidy for young drivers does not address the cost of automobile claims in Ontario.

Our problem in Ontario--speaking as an operator of an insurer in Ontario--is not with physical damage coverages with automobile insurance. It deals with bodily injury. That has been echoed, be it by British Columbia, Manitoba, Saskatchewan and Ontario, for over two years.

My concern in attempting to offer a policy and service to the consumer is trying to contain my costs while at the same time having to face the escalating costs of bodily injuries in Ontario. We are in need of tort reform, and that has been echoed and agreed to by many servers. I believe we are in need of a modified no-fault system in Ontario.

I suggest to you very humbly that Bill 2 does not address the cost of insurance. It addresses basically two concerns, from my vantage point. It addresses the concern of the high cost of insurance to young drivers coming into the system--while looking to subsidize it in part through females and the mass of the motoring public in Ontario--and it perhaps addresses the issue as to whether the consumer gets the best price from the broker at the time of purchase, given that no broker represents 153 companies. He might represent six to 15, but he does not represent 153.

The true issue is that competition could not be found anywhere else as fluid as we can find it in Ontario. Where can we go and find 153 insurers, with six million drivers, offering automobile insurance? The issue is that Bill 2, if intended to address costs, has missed the boat. It does not. It addresses the purchase of insurance; it addresses young drivers, young male drivers specifically; it addresses the fact that nine per cent of the drivers have 21 per cent of accidents, yet we want to subsidize them. But we want to turn around, quite frankly, and go to the seven per cent of drivers who are females and have seven per cent of accidents and get their premiums up by anywhere between 15 and 50 per cent.

1610

If that is viable politically, then I fail to understand political acumen. I do not quite understand that, because we will be, as an industry, the people who have to face the public and explain those situations. That is my concern. My concern is really towards the consumer who will have to bear the brunt of whatever actions we take, for whatever expediency. So I think we

ought to reconsider, and the purpose of this brief really is, on behalf of Canadian insurers, as I said before, who have no other harbours but Ontario and Canada, to ask that it be reconsidered.

Mr. Chairman: Thank you very much. We appreciate your attendance before the committee. As we indicated to other groups, we will take into consideration the information you have provided in the mix with reference to the issue we are dealing with.

Mr. Swart: This is not a question. I just want to discuss a matter of procedure. I asked some time ago that Mr. Kwinter be brought before the committee, and we have been told that he could not arrange the time. I regret that very much. It seems to me he should be able to give some valuable information.

Particularly I would like to know--and this has some bearing on what these people have said--what he meant when he said in the House that if we had had a rate review board, the rates would now have been from eight per cent to 39 per cent higher. He made that statement on October 14, 1986. I think we should have an explanation of that. That is a pretty strong statement against a rate review board. I would like to have him here, of course, and that is why--

Mr. Chairman: We had endeavoured to do that, and you may recall--

Mr. Swart: Yes, I do, if you would let me go on.

Mr. Chairman: --that the clerk gave me information saying that he was not available on the dates specified.

Mr. Swart: I would be willing to accept a letter of explanation of just exactly what he meant in the House when he made that statement. I think it not unreasonable to ask and I think there should be a full explanation.

Mr. Chairman: I am sure, if you were to address that issue to him in a letter, he would respond to you.

Mr. Swart: I would think the request should come from this committee, since we had asked him to be here and he has now--

Mr. Chairman: Can we leave that matter until Monday, when the full committee is here?

Mr. Swart: Yes, we can. I am not pushing it today.

Mr. Cureatz: Are we off that topic, Mr. Chairman?

Mr. Chairman: Yes.

Mr. Cureatz: I am wondering, I do not think we have had any difficulty today, but I know from past experience--and certainly Mel, a much longer-standing member than myself--

Mr. Swart: Sitting.

Mr. Cureatz: That too.

Mr. Chairman: It is like lawyers. They are always practising. They

never get a break.

Mr. Cureatz: That is right. They never learn how to do it.

The committee might consider something, because we are getting bogged down with time and, with all due respect to my learned and senior colleague Mel, he is very anxious in getting some evidence across, which I strongly respect; but, by the same token, I do not like keeping witnesses dangling around. I wonder if, on the precedent set in past experience on the standing committee on public accounts in recent times, the time could be divided up equally among the three parties to try to accommodate the witnesses so that when the allotted time has diminished, then we can move on to the next witness.

Mr. Chairman: I appreciate that comment. I recall it being done at public accounts. If we are going to stay on the times we have set--of course, we all recognize that when the clerk contacts these people, she makes an estimation of how long it is going to take, and usually that is on the basis of their telling her how long their presentation will be and the anticipation of how long the questions will be from the members. The latter part is terribly difficult to pin down, but it seems to me that that would make good sense. Perhaps if the committee is prepared to accept that unanimously, then it could be flexible enough that if we found that the groups we had before us were such that we had extra time, then we might have that flexibility built in to be able to give additional questions thereafter to each member of the caucus for an additional question or so.

Mr. Swart: I think in the committees that have been done, we have not done badly here on time. The Conservatives have, and because of my interest in this, I guess I make no apologies for that.

Mr. Chairman: No apology is necessary.

Mr. Swart: On the other hand, I do want to try to be as fair as possible. I mean, we have not kept any group waiting too long. We may come to that. There are obviously certain groups, such as today, where I have more interest in questioning them and I will be glad to try, if we can do this just informally, not posing so many questions to some of the groups in which I do not have the same kind of interest.

Mr. Chairman: Let me put it to you this way: I am trying to be fair to the witnesses as well as to the members, but I sometimes get a bit anxious here--and this is not a criticism now at all--when I see that you have gone on and you are asking quite legitimate questions and so on but, perhaps because of the time element, Mr. Runciman does not get his fair time, nor, perhaps, does a member from the government.

Could we not have unanimous consent that we would try that, particularly on the road, and subject to the caveat that if a group comes before us of whom we can anticipate there will be a lot of questioning, and if the time frame was there, we would have the flexibility to open it up again for five minutes, perhaps, or 10 minutes to each caucus?

Mr. Swart: I am quite prepared to go with the chairman and say that I, for my part, shall try not to unfairly utilize the time at the expense of others.

Mr. Chairman: I would not want to cut off any member here. That is the purpose of being here. It makes it very uneasy for the chairman to step in

and stop you, but I also want to make certain that everybody gets a fair amount of time. That is not a criticism.

Mr. Cureatz: You know what happens, Mr. Chairman, and I am at fault some times, too: You wind up getting into an area and you do not pay attention to the time.

Mr. Chairman: That is right. You get carried away.

Mr. Cureatz: It might be helpful for us if, for instance, you said: "Here is our first group. They are on till 10:30. Roughly speaking, after the presentation we have 15 minutes per caucus. Which caucus wants to go first, or what is the rotation?" Then the person who is discussing the particular issue will sort of have a mental note that he has 15 minutes. At 10:10 he is finished.

Mr. Chairman: It is also helpful with the witnesses, too, because I think we owe them as much of a duty to be certain to hear everything they say rather than to try to cut them off. Sometimes they go off on a tangent, as do the members, and the answers are much lengthier than they should be.

Mr. Cureatz: We saw that with Mr. Runciman.

Mr. Swart: I have no particular objection, Mr. Cureatz, but I would point out that traditionally in the committee, over the years when the Conservatives were in power, the first questions went to the official opposition.

Mr. Chairman: I do not think we have any difficulty with that at all. That is not the difficulty.

Mr. Cureatz: If you want to remind us again that we are the third party--

Mr. Swart: I was not even thinking of that. You are too sensitive.

Mr. Cureatz: Yes.

Mr. Chairman: That is not the difficulty, Mr. Swart, but on occasion, in fact, if one of the other members has raised his hand, or perhaps two or three of a particular party, then it requires me to be unfair and to call them out of sequence to achieve that.

Mr. Swart: I am not criticizing you. You said you were not criticizing. I am not criticizing you.

Mr. Chairman: I wonder if we could try that on, because it will allow us to stay within our time frame and be flexible enough that if an issue arises where it looks as if we are going to need more time, we give 15 minutes to each caucus. Was it 15 or 20 minutes? I cannot remember.

Mr. Chairman: It depends on how much time is allocated.

Mr. Cureatz: To the witnesses, yes.

Mr. Chairman: A third and a third, and then leave it flexible enough that we can then unanimously consent to further time, if it is required.

Mr. Cureatz: But I think you should say, after the witnesses have made the presentation, "We have 20 minutes left."

1620

Mr. Chairman: Yes, I will. That is assuming that we get unanimous consent to agree to this procedure. I will tell them that and that will let them know where they stand, too.

Mr. Swart: Can I just say, there are some groups, though, and I think we all agree, that should be allotted extra time. A group such as the Insurance Bureau of Canada I would say is a senior group we want to hear from. We set up two presentations today, and we are finishing by 4:30. As a matter of fact, I do not think what has taken place today was extreme.

Mr. Chairman: I do not think the time is a problem, because we are here anyway, but I think it is a problem when you have groups sitting out there and they are listed on the score-card as coming on at 10:30 and they do not come on until noon. We are inconveniencing these people. We are asking them to come here and give us information. I think we have to be sensitive to that.

Mr. Swart: I think those who have been before--and I am not suggesting this is right--would agree that this has been traditionally the case, even worse than what has taken place here. I recall there were four groups which never got on at the end of a hearing and they were just furious, and rightly so. They had just been squeezed to the end. One member of the committee, would you believe, called time, "I want to point out that it's adjournment time," and four important groups never even got heard. It is traditional that you go over the time and juggle them around and people sometimes have to wait. I do not say it is right; I am just saying it happens.

Mr. Chairman: Let us bring this to a head. Do we have unanimous consent to proceed the way I have suggested or as has been moved by Mr. Cureatz? Agreed.

Fine. One further item. I would remind you that there are sheets up here to be filled out. One o'clock on Monday, as opposed to two o'clock, we have someone from the Saskatchewan public insurance.

Mr. Nixon would like to make some comments in regard to a package of amendments proposed by the government that you have before you.

Mr. J. B. Nixon: The amendments you have before you are just amendments that the minister mentioned he would be tabling in his introductory or opening speech on Monday. We wanted to get them before you before the weekend so everyone could read them and study them.

Mr. Swart: We are all looking forward to it.

Mr. J. B. Nixon: The question in my mind, though, is: Given the tight timetable, does the committee want time with staff to go over them prior to clause-by-clause review?

Mr. Chairman: Let us read through them and see whether that is necessary.

Mr. J. B. Nixon: Keep that in mind, because staff is available.

Mr. Chairman: I ask this as chairman and I am not sure what the practice is, but if there are to be amendments from the other parties, perhaps we can see those as soon as possible too, so that we when we get to clause-by-clause we will know where we are going.

Mr. J. B. Nixon: That would help.

Mr. Chairman: There are copies of the schedule for those of you who are travelling. The clerk has asked me to make certain that your staff has a copy of that so they know where you are, I guess.

The committee adjourned at 4:25 p.m.

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ONTARIO AUTOMOBILE INSURANCE BOARD ACT

MONDAY, JANUARY 18, 1988



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

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Keyes, Kenneth A. (Kingston and The Islands L)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

McGuinty, Dalton J. (Ottawa South L) for Mr. Chiarelli

Swart, Mel (Wellsboro-Thorold NDP) for Mr. Hampton

Clerk: Mellor, Lynn

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Financial Institutions:

Nixon, J. Bradford, Parliamentary Assistant to the Minister of Financial
Institutions (York Mills L)

From the Insurance Brokers Association of Saskatchewan:

Stark, Joe, President

From the Insurance Agents' Association of British Columbia:

Brown, William R., President

From the Insurance Brokers Association of Ontario:

Davies, Frank, President

Taylor, Terry E., Assistant General Manager

Martin, Ken, General Manager

White, Al, President-Elect

From the Facility Association:

McKay, Donald D., General Manager

Manji, Sam, Controller

MacPherson, Jim, Manager, Technical Services

From Sunrise Co-operative Inc.:

Dorkin, Larry, President

From the Markel Insurance Co. of Canada:

White, John, Vice-President, Underwriting

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday, January 18, 1988

The committee met at 1:10 p.m. in room 151.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT
(continued)

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

Mr. Chairman: A quorum is recognized. The first group we have before us this afternoon is the Insurance Brokers Association of Saskatchewan, Joe Stark. Mr. Stark, would you like to come forward? Is there anyone else with you or are you here all by your lonesome?

Mr. Stark: I am here all by my lonesome.

Mr. Chairman: Perhaps you will have a seat and identify yourself for purposes of Hansard. Do you have a written brief?

Mr. Stark: I do.

Mr. Chairman: Fine, you have exhibit 20 before you. Proceed in whatever way you wish. If you wish, you can read the brief to us and then we will try to leave enough time for questions from the committee. We have you presently slated in for an hour. It is 10 minutes into that already but we will play it by ear.

INSURANCE BROKERS ASSOCIATION OF SASKATCHEWAN

Mr. Stark: My name is Joe Stark from Shaunavon, Saskatchewan. I am the president of the Insurance Brokers Association of Saskatchewan. I am a partner in the firm of Stark's Agency Ltd. which is in the general insurance business in Saskatchewan. I will read my report to you as it is, a report to the standing committee on administration of justice for the province of Ontario.

The Insurance Brokers Association of Saskatchewan is pleased to be asked to present this submission to the committee. In this document, we will identify our association and our association's involvement in this submission. We have been asked by your committee to make comments on the pros and cons of government auto insurance in our province.

The Insurance Brokers Association of Saskatchewan is a volunteer trade association representing agents and brokers in the province of Saskatchewan. We represent 305 agencies and brokers in the province and collectively we represent approximately 80 per cent of the property-casualty insurance transactions in the province.

Due to the time constraints, the board of directors of the IBAS was unable to poll all our members to prepare this document. Therefore, this document reflects the viewpoints of a select group of IBAS members who are all on the board of directors of the IBAS.

The Saskatchewan Auto Fund, as you may well be aware, is Saskatchewan's government-run auto program. It is simply a compulsory insurance program that provides the driving public with accident benefit coverage, third-party liability and limited physical damage coverage to every registered vehicle in the province. The insurance premium is paid with the vehicle registration at the time of registering the vehicle or at time of renewal.

SAF is administered by Saskatchewan Government Insurance, our government-run general insurance company. The two crown corporations share employees, office space and both are run by the same board of directors which is appointed by the government of the day.

The compulsory insurance is sold directly by SGI employees at their head office, branch offices located throughout Saskatchewan and selected issuers, most of whom are independent agents or brokers. We are compensated for this service by collecting a transaction fee. Other issuers include the Saskatchewan Motor Club and various individuals as appointed by the government.

Excess cover is not available with the compulsory program so consumers purchase extra coverage from SGI or other private insurers who operate in the province. Excess cover is not available from other than independent agents or brokers who have been properly licensed.

As far as public image is concerned, the driving public of Saskatchewan has had government auto insurance since 1945; therefore, most of the consumers have nothing with which to compare this compulsory program. Most recently, the government has introduced two rate increases in less than a year and this has raised concern and discontent among the driving public and increased discussion of the fact that drivers have no choice.

Typical of government-run programs, turnaround can be awfully slow. New transactions or transfers tend to take four to six weeks before certificates are issued. Short-term coverage is not available and cancellation costs are high. Mid-term cancellations take six to eight weeks before consumers receive their refunds and this causes concern to the consumer.

In regard to the broker's position, our deliberations in the past have drawn us to the conclusion that our system of auto insurance is not satisfactory. Some of the reasons for our opinions are as follows.

On the positive side of government auto insurance in our province, first, the consumer has little or no concern about insurer insolvency. The Saskatchewan Auto Fund program has the security of the government of Saskatchewan.

Second, it is easy for the consumer to place auto insurance because he has no choice on where he is going to purchase his coverage.

Third, the program does not discriminate in rating or acceptability based on marital status, age or sex. This generally produces lower rates for younger or high-claims-frequency drivers.

Fourth is uniformity in the rules. Since the government's is the only program, every motorist receives the same rules and coverage for his insurance program.

Fifth, for the brokers, this system is easy to administer. There is only one set of rates and driving experience is not a criterion for rating.

Sixth, the Saskatchewan Auto Fund has shown the public that it can withstand political change, leaving the consumer with peace of mind at election time.

Seventh, SAF/SGI has been a very good corporate citizen of the province, providing employment and has involved itself in driver safety programs, such as promotion of seatbelts and the "Lights on for Life" campaign.

There are, however, more negative points to the government-run insurance schemes than there are in the private sector.

First, political intervention has always played a part in our auto insurance. Government uses it to gain points with the public and can inject money from different sources to prop up the financial picture of SAF.

Second, politicians often get involved in claims problems and sometimes defy insurance principles in order to satisfy their voters.

Third, there is lack of competition. Saskatchewan consumers are left with no other insurers to create competition among companies. In the past few months, the public has had two increases in rates. The consumer has to accept these increases as he has no choice but to renew with the compulsory program; therefore, rates can be whatever the government wishes.

Fourth, in Saskatchewan there is no guaranteed provision to purchase excess coverage, such as the Facility Association. The private carriers and SGI will provide excess coverage to a select group of drivers. Other drivers who do not meet the underwriting guidelines are left without coverage. This can mean loss of employment should a person require a specific limit of liability for his vehicle in order to maintain a job.

Fifth, as all drivers are rated equally and no provision is made for claims-free or conviction-free drivers, we feel that the rates in Saskatchewan are higher than those of other provinces that do not have government auto insurance.

Sixth, with no agent representation, the consumers of Saskatchewan are basically on their own. The onus is on the insuring public to make sure that their vehicles are properly registered at all times in order to have coverage if a claim should occur. We have seen several cases where a motorist has registered his vehicle in the wrong class and has been denied coverage. If the registration onus was on the broker, the motorist would then have recourse against the broker for any negligent actions.

Seventh, with no broker representation, the insured is responsible for renewing his coverage before expiry. SAF is not responsible to provide renewal notices and does so only as a convenience to motorists. No notice is provided if the insurance coverage expires. This leads to cases of motorists driving without coverage or uninsured when a claim occurs because they did not realize their coverage had expired.

Eighth, as explained earlier, the compulsory insurance program is sold to the general public by more than licensed salespeople; therefore, insurance is being sold to the motorist by salespeople who are trained to fill out forms and the insured is left to find out for himself what coverage has been provided.

Ninth, another concern we have is that the government can arbitrarily make changes to the program during the term of the contract without consent of the insured. For example, in the past, Saskatchewan Auto Fund increased the deductible for collision and comprehensive from \$350 to \$500, with changes in everybody's coverage effective the date of the coverage change. This means that a consumer's coverage that would apply at the time of an accident would be entirely different from what the consumer purchased.

Tenth, in most provinces, consumers are able to buy short-term policies or finance a premium over time. Unfortunately, this option is not available to the consumers in Saskatchewan. We have identified two problems that have resulted. First, the consumer's cash flow is dramatically affected at the time of renewal and, second, because of this cash shortage, insureds often do not purchase the excess coverage they require to protect themselves adequately.

In conclusion, we have tried to outline briefly what we see as the strengths and weaknesses of our system in Saskatchewan. We see fault in our program. However, having worked with this system for 48 years, we have learned to live with the inefficiencies of the system. Thank you.

Mr. Chairman: Okay. I have a list, Mr. Keyes and Mr. Swart.

Mr. Keyes: Mr. Stark, thank you very much for coming and giving us an overview of the Saskatchewan system which, if I may beg a personal indulgence, seems to surprise me quite a bit. It is different from what I had expected we might hear about that system after listening to our very strong advocate here, and listening to him over the years.

What we have attempted to do, in our opinion, as a government in Ontario, is to try to look at the beneficial aspects of the other provinces that have province-run insurance and to look at the private sector and see if there is a way of creating improvements in the entire system, using the best of both worlds, so to speak.

In here you have not made any comments whatsoever on our Bill 2. I am not sure whether you had an opportunity to read it and, if you have not, I would personally appreciate it if you took it away with you. If, in the course of the next two or three weeks, you had an opportunity to make some comments, we would appreciate it very much.

Just in your own brief you have talked to some of the shortcomings. We have tried to provide the opportunity for the clients to still have input into selecting the level of deductibles they may choose. We have tried to use driving experience as a very integral part of the system and yet we have done away with such things as discrimination on the basis of age, sex, marital status, etc.

I wonder if this is a fair question to ask you, as a young entrepreneur in Saskatchewan: If you had the opportunity to reform the insurance system of that province, what would you consider some of the main criteria that you would put forth to improve that system? I think you have done a very good evaluation of the strengths and weaknesses, but have not come down to saying how it might be changed.

So here you are in Ontario. You can suggest that there are things that you, as a broker, have been able to see from both sides. What would you put out as some of those main principles or concepts?

Mr. Stark: OK. Just as a little bit of history on Saskatchewan Government Insurance and Saskatchewan Auto Fund, I think it came about because there was no available auto insurance in the province. The government saw a need to put the program in place. I think that would probably be the most important thing: to provide the consumer with the freedom to buy from where he wants. We had available markets. But right now we have people with older vehicles who are forced to buy physical damage coverage where they might not necessarily buy it. Sometimes the coverage cost is more than the vehicle cost. That is one of the shortcomings.

I would like to see compulsory liability because I think it is important that the rest of the driving public is protected if an insured is involved in an accident, but I think the insured and drivers should make their own conscious decisions whether they want to purchase the rest of the insurance coverage that is made available.

Mr. Keyes: We will probably return, Mr. Chairman, and you may in your remarks think of some of the other areas and then comment on them. We have taken away the discrimination, but what would your comment be with regard to a rate review board, which is more or less in between the broker and the government and reviews the rates on an annual basis--I should not say annually perhaps, but upon need or perceived need and also on application of the industry--allowing a range of rates which then does still allow for competition?

Mr. Stark: Based on my experience, which is nine years in the insurance business, I see that the insurers do warrant some discrimination in rating for age. I know myself and my friends, as younger drivers, had more accidents than we do now. I think there is some justification in the insurers using age as a rating criterion. In Saskatchewan, we see it from people moving in from other provinces, claims-free, conviction-free drivers who feel they are paying a lot more than they were, say, in Alberta or Ontario when they moved in.

Because we are all grouped together in the same claims experience, younger drivers are basically getting their insurance at a discount compared to the risk involved, and--I do not want to say older drivers, but more mature, better driving experience--experience should be considered in the rating.

We had a rate review board in Saskatchewan. The government put it in. It was called Public Utilities Review Commission. Saskatchewan Auto Fund went to it for rate increases because it felt it needed rate increases, and it was turned down. It was turned down because--

Mr. Chairman: Is this for the excess coverage?

Mr. Stark: This is for compulsory coverage. Increases had to be approved in Saskatchewan. They abolished the commission this fall, and we have seen two increases since the commission has been abolished.

That is the problem with a rate review commission. As long as things are going fine and you are representing the consumer, it is great. But once the government sees it is not getting what it wants, it eliminates the commission. That is what happened in Saskatchewan.

Mr. Keyes: If I am correct, in your brief you said there was really no comparable instrument to our Facility Association to provide for those very high-risk drivers who have been turned down. Did I read your brief correctly? You say that does put drivers on the highways who have no coverage whatsoever?

Mr. Stark: Not no coverage--

Mr. Keyes: Or, if they tend to do such, they may be there without any coverage whatsoever for the rest of the public as well as themselves, or else forego the use of an automobile to get to work.

Mr. Stark: They can still buy the compulsory program. If you are a high-risk, high-claims driver, you can buy the compulsory program, which provides \$200,000 worth of public liability and accident benefits and the collision coverage, but you cannot buy any excess coverage above that. If your job required that you carry \$1 million and you had a bad driving experience, you could not buy that coverage, whereas in Ontario or Alberta you could apply to the Facility Association and buy that coverage. It is available to everybody.

Mr. Keyes: I will pass.

Mr. Chairman: Before you start, Mr. Swart, I want to clarify two items. Are you saying the rate board that was there reviewed the rates of both the government coverage as well as the excess coverage?

Mr. Stark: Not the excess coverage. The excess coverage was done by the general insurer.

Mr. Chairman: There was no rate review board for the excess coverage then?

Mr. Stark: Not for the excess coverage.

Mr. Chairman: One final thing, if I could, before Mr. Swart starts. We heard that in Manitoba there is an additional sum paid when you pick up your driver's licence if you have demerit points. Is that the same in Saskatchewan?

Mr. Stark: That is the same in Saskatchewan.

Mr. Chairman: What is the range? Is there a maximum and a minimum?

Mr. Stark: It depends. If you have three or less demerit points--they do not call them demerit points--if you had three or less driving points, your driver's licence is the regular rate, which is \$20. Points can come from anything from speeding tickets to impaired driving to accidents. The accident surcharge is applied to your driver's licence. I think it is \$100 for the first accident and then it increases as of each accident.

Mr. Chairman: Is there any ceiling on it? Is there a maximum and a minimum?

Mr. Stark: There is no ceiling. The minimum is \$20 for three or less points.

Mr. Chairman: And the maximum can go anyplace?

Mr. Stark: It can go anyplace.

Mr. Chairman: Mr. Swart. I am sorry; I just felt I should clarify that.

Mr. Swart: First, I have here the annual reports of Saskatchewan, Manitoba and British Columbia for 1986, the most recent year. I think all the members might like to have them and perhaps we could give one to Mr. Stark.

Mr. Stark, I too want to say thank you for coming here. I am sure Mr. Keyes is aware you come from the brokers association; you come from a private enterprise background and your attitude towards public auto insurance, as an insurance broker who has a substantial interest in remuneration, whereas Ontario's remuneration is substantially higher than they are on their private insurance, your opinion expressed here might not be that of the public generally. That is not an unfair remark, I would think.

1330

Mr. Stark: I do not know. We have done some comparisons on our own, and, I guess because Ontario's auto insurance and Saskatchewan's auto insurance are so different, it is hard to compare apples to apples and to say this driver would be in this rate category. If we see comparisons, we have probably seen 100 different ones, depending on who produces the comparison, of what rates the public pays.

A general concern of drivers who move into the province, and from my own agency I can attest to it, is that they always think Saskatchewan's rates are going to be lower. They are quite surprised when they get there to find they are paying more than they paid in the private province for comparable coverage.

Mr. Swart: Might I just say to you, as a matter of information, that in our travelling around the province we had numerous people come before us who come from the western provinces. Out of all of those who came before us, and it would have been at least 15, they all said it was substantially higher when they got here. We did not have one person come before us to say it was lower.

However, I do want to point out to you, and you may want to comment on this, that we did have the Ontario division of the Consumers' Association of Canada before us. Let me read just two short paragraphs from the Consumers' Association of Canada, Ontario section.

They said that this past June, during the 40th anniversary meeting of the Consumers' Association of Canada in Ottawa, CAC Ontario organized a special meeting of its delegates to discuss consumer experiences of government-run auto insurance with leading delegates from Manitoba, Saskatchewan and British Columbia.

The purpose of the meeting was to get a firsthand account of consumer satisfaction and the particular nature of complaints about public auto insurance. There were questions and answers in a full airing of how the system works and how it compared with Ontario's.

To the surprise of the Ontario delegation, virtually all of the feedback was positive. At the conclusion of the meeting, the three western delegates were asked to rate consumer satisfaction on a scale of one to 10, one being very poor and 10 excellent. To the surprise of the Ontario delegates, the average rating for the three provinces was nine.

Then it says the Ontario delegation voted unanimously that it should re-examine its position, which was in opposition to the public auto insurance system.

We have also had the Automobile Protection Association, which has, I think, about 15,000 members in Canada, which has also come out strongly in support of it after doing an examination there.

It would appear that the consumers generally are in favour of it. Do you wish to make any further comment on that?

Mr. Stark: Just my comment personally in listening to the report and to what you say. In Saskatchewan we have had government auto insurance since 1945. The majority of the drivers have nothing to compare it with. I guess you become satisfied with the system you live with.

Mr. Swart: They are not here.

Mr. Stark: As brokers, we are privy to information from other provinces and we see how the other programs are run and the coverages that are offered. Government tends to be slow to respond to change in the province, but when you have had a system for 48 years, and that is going to involve most of the driving public and they have nothing to compare it to, I guess that is where maybe the high rating came from.

Mr. Swart: I notice you said they have no Facility Association out there but everyone can get insurance through the regular system. That is correct--a compulsory insurance?

Mr. Stark: Correct.

Mr. Swart: Are you aware that the Facility Association here provides only the same minimums?

Mr. Stark: But the coverage is available to buy higher limits.

Mr. Swart: No, it is not; not from the Facility Association. If you are a bad driver, you can go to the Facility Association and you get only the minimum insurance which is guaranteed by law in Ontario. We will have the Facility Association here later this afternoon, but they are exactly the same as out there. If you are really a bad driver, you can get only a limited amount of insurance.

Mr. Stark: OK, then what about the case of the substandard driver? The rules of the private insurer are an issue I use. If you have had two claims, three claims, you are basically not acceptable. I do not necessarily say that is a bad driver, and again here we are talking in generic terms. A bad driver in your opinion may be different from a bad driver in my opinion and it would be different in the Facility Association's opinion.

Mr. Swart: As I said, we will talking about this later this afternoon. My colleague here would agree with me that there has been too much use of the Facility Association in Ontario. If a person gets even a few points against him, especially a younger person, he has been sent to the Facility Association. But in general--in theory, at least--those drivers who do not have an extremely bad record have been able to get it through the regular insurance system here.

Mr. Stark: I am sort of agreeing with you. Our two-point and three-point drivers are getting turned down by the private insurers for the excess coverage.

Mr. Swart: It depends on the insurance companies, and the two or three points here is a lot different from what you have in Saskatchewan on the point system.

Mr. Stark: Exactly.

Mr. Swart: I am sure you are aware of that.

Mr. Stark: Right.

Mr. Swart: I can only say to you in general terms that, generally speaking, the very bad drivers, theoretically, have to go to Facility and get it and cannot get the extra. The drivers who have lost a number of points--

Mr. Chairman: I am not sure whether you guys have reversed roles while I was not watching.

Mr. Swart: No, I am coming back to the questions. I gather your feeling was that the rate review out there was not satisfactory. Is that right?

Mr. Stark: I am not sure. I do not know how involved they got. I know Saskatchewan Government Insurance--and it was the Public Utilities Review Commission; it reviewed everything. SaskTel and all the crown corporations would present their annual budgets to them and what they proposed for increases. The Public Utilities Review Commission dealt with each issue. It sat down and looked at everything and said, "This is what we are going to do with it," and that was binding.

This fall the government decided to get rid of it, for whatever reason; and I am just commenting. Since then, the auto fund has had two increases.

Mr. Swart: You mentioned in your brief that you get a straight transaction fee, unlike British Columbia and Manitoba where they are paid a percentage. Do you mind telling us what that is? I presume there is a scale.

Mr. Stark: No, it is exactly the same. It is \$2.50 for renewals and \$3 for original transactions where we fill out the long form.

Mr. Swart: That is specifically for the selling of the insurance policy to the motorist.

Mr. Stark: Correct. I guess it is not really for selling the insurance policy; it is a transaction fee for handling the paper. As I said before, the onus is on the public to make sure it is in the right class. We do not advise it of anything. The total onus is on the public to find out what it needs and that it is registered properly. We are not really selling insurance to the public. We are, more or less, order takers.

Mr. Swart: The figure in the financial statement is for issuer fees of \$3 million. Have you seen the financial statement? Did they give you one?

Mr. Stark: No, I never got a copy of it.

Mr. Swart: Issuer fees are \$3,752,000, which would be less than two

per cent of the total cost of the operation of the corporation, would be correct.

Mr. Stark: It would probably be correct. Yes.

Mr. Swart: You are aware that in Ontario, compared to that, there is an 11.6 percent average fee which goes to the broker.

Mr. Stark: I think that is totally reflected in the service that the consumer is provided. He is given notice of renewal. The Saskatchewan Auto Fund has stated that it does it as a convenience. Sometimes it forgets. Sometimes things get caught up in the processing, and a renewal is not sent out. You get that service with an agent. You will also be advised by a private company should your insurance be terminated. With Saskatchewan Auto Fund it just lapses and you are without coverage.

Also, if your agent is doing his job, he will contact you on renewal and offer you whatever options are available, to change companies or discuss your renewal or advise you that your policy is about to lapse. In Saskatchewan that is not done. I think the brokers are providing a service that the people in Saskatchewan are not getting.

Mr. Swart: It may be. Although, again, the consumers' association polls on consumer satisfaction in Ontario versus the three western provinces show, in fact, that it is higher out there. There must be less criticism. It says something. In Manitoba, as you probably know, there is a five per cent commission to be paid.

Mr. Stark: Correct.

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Mr. Swart: And in British Columbia, I believe it is six on a percentage basis, but that compares to 11.6 per cent here. That means, of course, the total premium that the motorist has to pay is lower by that amount.

Mr. Stark: That may very well be. As I said, in some of the surveys we have seen the premiums are higher, depending on what you class. There are so many variations in auto insurance and it is hard to compare apples to apples.

Mr. Swart: I do not think you people, as brokers out there, have said this, but it has been said here on numerous occasions that there is \$72 million put into Saskatchewan government auto insurance from the general funds. Have you any information on that?

Mr. Stark: No, I do not.

Mr. Swart: We have gone over the financial statements at great length and it is simply not the case. Any money that went in, there was money went into the general insurance section, and this has operated as a separate identity over all those years and has not been money that has gone into the auto insurance.

Mr. Chairman: I think the witness indicated he had no knowledge of that.

Mr. Swart: Yes. He had no knowledge of that, so I will not pursue that matter with him.

Are you familiar enough with the Saskatchewan operation to know the amount of money involved, the total expenses relative to claims paid out?

Mr. Stark: Other than a quick look at the financial statement. The total expenses incurred by Saskatchewan Auto Fund could vary because of the closeness of the two crown corporations. They use the same adjuster, so which side pays the adjuster, the general side or the auto side? It is very hard to look at a financial statement and say these are true expenses of the auto fund.

Mr. Swart: Are you aware that these annual statements have audited reports which have the properly attributed costs?

Mr. Stark: I am aware of that, but you would advise him how you wanted the costs attributed, to say that in this claims office five of the 10 people should be auto fund people. Because the adjusters do both all day, it is hard to say, "You are an auto fund adjuster and you are a general adjuster." They do each other's work, and it would be how you attributed the costs.

Mr. Swart: You realize the provincial auditors are independent?

Mr. Stark: I realize that.

Mr. Swart: They do not hesitate for one moment to criticize, as they have done here recently, quite extensively, the present government for some of its transactions, and they state that this is fairly distributed.

There are a few other questions I want to ask you about the brief you have presented here. You make no reference in your brief in the positive statements about Saskatchewan government auto insurance--at least I do not think you do--to the fact that everyone has to have insurance, that the insurance is sold with the plates.

Mr. Stark: I mentioned that in my observations where I stated this is simply a compulsory insurance program for every registered vehicle in the province.

Mr. Swart: And it is true out there, is it not, that you cannot get your plates or your sticker for your plates unless you get insurance at the same time?

Mr. Stark: Right. It is all in one transaction.

Mr. Swart: It is all in one, so you cannot have any uninsured people driving unless they do not have up-to-date plates?

Mr. Stark: Correct.

Mr. Swart: Whereas in Ontario we have approximately 200,000 people driving without insurance, people who do not renew their insurance, or something of that nature.

I also want to ask you, because there seems a bit of a misunderstanding here by some people, the basic insurance rate on your auto does not change because you have lost points. You pay an additional premium on your driver's licence which is then turned over to the insurance company. Is that correct?

Mr. Stark: Correct.

Mr. Swart: So that all premium penalties because of bad driving, misdemeanours, etc., are in fact paid by the driver and not on the automobile, unlike Ontario, where it is assessed against the automobile whether you have two or three drivers or whatever the case may be?

Mr. Stark: Correct.

Mr. Swart: It is not an additional charge over and above. All penalty rates are collected there. You indicated some of those penalty rates, and I think you indicated in answer to the chairman that there was no limit. In fact, there is a limit, because when you get up to a certain number of points you lose your driving licence.

Mr. Stark: No, we do not have a set point limit. We do not have, "Sixteen points, you lose your licence." You are allowed so many points. The Highway Traffic Board will write you a letter.

Mr. Chairman: I knew the answer to that question.

Mr. Stark: They will give you a warning and then they will bring you in a for a hearing if you have not cleared up. There is nothing set down on paper that with so many points, you lose your licence. There is basically no ceiling.

Mr. Swart: How does the Department of Highways and Transportation decide when a person's licence--I am sure they revoke licences out there. How do they decide that?

Mr. Stark: They revoke licences for Criminal Code convictions and they have, I suppose, the right--and it happens very rarely--to take away a licence for so many points. Usually, they give the guy fair warning to clean up his act.

Mr. Swart: We get a warning here too, of course, as you probably know. Then we get called in if we lose too many points. Then after we lose a certain number of points, in fact, we lose our licence.

Mr. Stark: OK, but do you have a set point limit? Your points can grow each year by one speeding ticket. So if you go 20 years with one speeding ticket, you are going to have 40 points.

Mr. Swart: We have a two-year limit.

Mr. Stark: I see. That is the difference.

Mr. Swart: You lose them after two years here.

Mr. Chairman: They go away.

Mr. Stark: They do not go away in Saskatchewan unless you go a full driving year without points.

Mr. Chairman: Without any demerit points at all.

Mr. Stark: Right. That is why there is no ceiling. You can have one claim or one conviction a year and your licence will--

Mr. Chairman: The driver who gets a lot of demerit points can get rid of them by just swearing off driving badly for a year.

Mr. Stark: Right, but in the first year that he drives conviction-free, his points are only cut in half. So you basically have to go three years to clear off all those points.

The unfortunate part of applying the surcharges for accidents to drivers is that a driver can be unfairly penalized for an accident, taking in no consideration for the insurance premium paid. In Saskatchewan, when any money over \$105 is paid out or there is property damage or physical damage to your own vehicle, you are assessed a surcharge on your licence. So you could have paid \$800 for your insurance and have paid out a \$106 property damage claim, and you are going to be surcharged \$100 on your driver's licence.

Mr. Chairman: I think we ought to hear the other side on that. Is that right, Mr. McGuinty?

Mr. McGuinty: On that particular point, I have difficulty in comparing rates and service--for example, Ontario with Saskatchewan or Manitoba or British Columbia--and it is because of the kind of thing to which you just alluded. In effect, merely to compare premium rates is not too meaningful because of the type of surcharge that you refer to.

Mr. Stark: Correct.

Mr. McGuinty: Do you know of any other aspects of your program that would have such, say, hidden charges--I do not use that in derogatory sense--but charges that would not be obvious to those of us who are not familiar with your program?

Mr. Stark: I do not know. Right off the top of my head, I cannot think of anything. I explained the limited physical damage coverage. Under the program, they provide only \$15,000 on commercial vehicles. You then have to buy the excess coverage. That is the only excess coverage you are able to buy from the auto fund.

Mr. McGuinty: When you look to the opening statement in the annual report of your auto fund, above the name of the president, he says, "In a year that saw large premium increases in other jurisdictions, Saskatchewan drivers found that stable rates went hand in hand with service improvements in the Saskatchewan fund."

If that were read by a casual observer not aware of the surcharges of the kind to which you refer, tacked on to the licences of the offenders, this would appear to be, in comparison to other parts of Canada that had no such fund, a very commendable situation.

I will repeat my question and would you think about it for a couple of seconds: Are there any other areas in which you say there could be subsidies for the insurance program out of other revenue?

Mr. Stark: None that I am aware of right now. In previous administrations there was a tax that was attached to gasoline that went to SGI to increase the fund. Every time you bought gas in Saskatchewan, three cents a litre or whatever--I do not know the exact figure--went to the Saskatchewan Auto Fund.

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Mr. Swart: With respect to this very question, you raise a point I want to pursue.

Mr. Chairman: I do not want to interfere, Mr. Swart, but I also want to inquire beforehand whether or not there are going to be questions from the third party. There are, Mr. Runciman? OK. I wanted to clear that up before we proceed.

Mr. Swart: You mention what you call a subsidy, which is the surcharge which goes into the insurance system. It is no more a subsidy than the subsidy here if you pay extra on your insurance because of a bad driving record. It all goes into the insurance system. But is it also not true, relative to that annual report, that these surcharges have remained rather constant up to this year? Over that period--that is an 1986 annual report--they have remained constant up to that time.

I have in front of me--I want to ask a question about this, too--a copy of a report of the Saskatoon Star Phoenix when auto insurance rates were increased, ultimately, in October 1987. They give comparative rates here. They also say--and I want you to ask whether you feel this is correct--"The initial surcharge for at-fault collisions will increase to \$100 from \$50." So if a person last year had his first at-fault collision, he had a \$50 surcharge on his licence which went into the insurance. Is that correct?

Mr. Stark: Correct.

Mr. Swart: That is going to go to \$100 this year, which is substantially less, incidentally, than you would pay here if you had an accident.

This report says, "Three speeding tickets in one year will result in the same double surcharge." If there are three speeding tickets in one year, formerly you paid \$50; now you pay \$100. Is that correct?

Mr. Stark: We are not privy to the driving information or to how the surcharge is arrived at.

Mr. Swart: Let me ask you if you have these figures. We have a list here of about 15 different automobiles and the increase in rates, and I will pick some out. For a 1984 Honda Civic, the 1987 rate is \$370. The new rate is \$395, an average 10 per cent increase this year. Are those about the right rates that you would ascribe to Saskatchewan?

Mr. Stark: There are so many. We probably have 400 different rates. It would be hard to--

Mr. Swart: A 1986 Chevy Caprice, \$390 gone to \$420. These are in Regina.

Mr. Chairman: In fairness, the witness has indicated that there are so many rates, it would be hard to confirm or deny what you are saying. I know the question you are asking, but perhaps if he is not responding to it, you are really answering it yourself.

Mr. Swart: We have a broker here, Mr. Chairman. We have the rates that are published by a large newspaper, the second largest in Saskatchewan. I wondered whether he had any disagreement with these.

Mr. Chairman: My understanding of the witness's evidence is that he really considers himself--and I do not want to demean you--really in the position of an order taker.

Mr. Stark: Correct.

Mr. Chairman: You really do not have a great fund of knowledge of what is going on in the rates and all the rest of it.

Mr. Stark: We have a rate manual that is this thick. Every single vehicle for each year is rated differently. You could tell me the rates were anything and I would believe you because I have nothing. Unless I had the rate manual here to verify the rates, I would be in difficulty.

Mr. Chairman: We also had an agreement that we would try to, in fairness, prorate the questions among the various parties. You had significant time. I am going to move on to Mr. Runciman. If we have time, I will come back to you if you have any further questions.

Mr. Runciman: I will not take too much time. The Insurance Brokers Association of Manitoba, which appeared before us, mentioned that physical damage coverage in that province is compulsory. Is that the case in your province as well?

Mr. Stark: Yes, it is.

Mr. Runciman: How do you feel about that?

Mr. Stark: My personal feelings are that I think it should be the consumer's choice. If the vehicle is financed, the bank is going to ensure that he has coverage to look after its interest. Other than that, if the insured wants to drive around with no physical damage coverage, that should be his choice. The government does not make us insure our boats, airplanes, whatever we buy, and I cannot see it being any different with an automobile.

Mr. Runciman: The fellow from Manitoba suggested this was a back-door way of funding the kitty, if you will, and covering the Mercedes and Cadillacs in terms of the physical damage cost.

On page 5 in your submission you mentioned that politicians often get involved in claims problems. I am wondering if you could give us some examples of that. Are you being pestered or are your colleagues being pestered by politicians in terms of claims and that sort of thing?

Mr. Stark: Personally, as brokers, we do not get involved in the claims. The insured deals directly with the company and if he has some problems with the company, he feels that the minister or his member of the Legislative Assembly should be able to help him. I heard a statistic at one time in one of the claims offices that one of every two claims had a ministerial inquiry on it because of the MLA. Once one person starts doing it, they feel it--it can be a real problem for the government.

Mr. Chairman: It sounds like workers' compensation in this province.

Mr. Runciman: The deeper the government gets into the private sector, there is no question this sort of thing occurs. It is going to occur with the current government legislation as well. We are going to see an increase in those kinds of queries, if you will. In terms of brokers in this political involvement, how are the brokers licensed in your province?

Mr. Stark: The brokers are licensed by the General Insurance Council of Saskatchewan, which is a council set up by the government, responsible to

the superintendent of insurance. We have to meet the qualifications set out by the superintendent to become licensed. Agencies and brokerages have to be sponsored by companies and salespeople have to be sponsored by agencies. Is that a fair estimation of how it is? We have to take a home study course or a Q and L, qualifying and licensing, course, which is a week-long study course, to pass the licensing requirement. Then if we have proper sponsorship, we are approved by the General Insurance Council.

Mr. Runciman: What I was getting at was just how extensive the concerns are about political involvement. You have not had any suggestions or complaints about politics intruding into the selection process for brokers in the province.

Mr. Stark: No, we have not.

Mr. Runciman: Do you know much about Saskatchewan Government Insurance, the number of staff people, that sort of thing, what kind of complement is involved?

Mr. Stark: No, I would just be guessing at the numbers of people.

Mr. Runciman: Is it extensive?

Mr. Stark: It is extensive. That is correct.

Mr. Runciman: Do they have the right to strike?

Mr. Stark: They are unionized; I know that. They have not had a strike--

Mr. Swart: For 41 years?

Mr. Stark: There was one work stoppage a fair number of years ago. They operated without contracts for various times. In my lifetime and in most agents' and brokers' lifetimes they have not struck and they have provided continuous service.

Mr. Runciman: What would happen if indeed they had the right to strike? I guess we will have to confirm this in other areas, but I suppose there would be a major disruption in terms of service to consumers in the province.

Mr. Stark: There certainly would be; yes.

Mr. Runciman: I assume SGI does not pay corporate tax, as an arm of government.

Mr. Stark: You would know better. It is a crown corporation. That I do not know.

Mr. Runciman: That is all.

Mr. Swart: I have a supplementary. Do you know in fact whether they pay premium taxes, etc.?

Mr. Stark: I believe they do pay the premium taxes.

Mr. Swart: Premium taxes and property taxes.

Mr. Stark: Correct.

Mr. Sola: I have a couple of brief questions. You say in your brief, sir, that you represent 305 agencies, and yet, due to time constraints, this brief represents the viewpoints of only a select group.

Mr. Stark: Correct.

Mr. Sola: How select is this group?

Mr. Stark: We were called, I believe on Tuesday, to appear before the committee. We had an executive meeting Tuesday night and a board meeting on Wednesday, so we dealt with the 14 brokers that are elected by the membership of our association and sat down and came up with our viewpoints and submission.

Mr. Sola: On page 3 you say, "Short-term coverage is not available and cancellation costs are high."

Mr. Stark: Correct.

Mr. Sola: "Cancellation costs are high." Without any figures, it is difficult to make comparisons. How high would a cancellation cost be?

Mr. Stark: I have not worked with the cancellations but they used to charge 20 per cent off the top and then one sixth of the insurance premium and one twelfth for each month after that. There was a top-end loading, I guess would be the fair way to say, on the cancellation, depending on what your premium was.

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Mr. Sola: Now we have a comparison with, say, how it is done here. Just saying they are high does not give you any way to compare.

I have a few more questions but, because of time constraints, I will pass.

Mr. Chairman: Thank you very much for coming that long distance. We wish you a safe trip back.

Before we continue on to the next delegation, Mr. Nixon has, I understand, a brief statement to make.

Mr. J. B. Nixon: You will recall on the opening day of these public hearings that the Minister of Financial Institutions (Mr. R. F. Nixon) stated that phase 2 of a study by William M. Mercer Ltd. would be made public as soon as it was completed.

The Mercer study deals with the distributive or redistributive effects of a new standardized automobile insurance classification plan. Phase 1 of the study covers private passenger automobiles and taxicabs. Phase 2 covers commercial automobiles and miscellaneous vehicles, including motorcycles and all-terrain vehicles.

The phase 2 study is now complete, and I am pleased to table it here today. There are additional copies available on that desk.

On releasing these data, I would refer you to Mr. Nixon's comments on January 11, when he cautioned members of the committee that the results and/or conclusions arrived at by Mercer are, in general terms, a first examination from data available to us at this time. Mr. Nixon's words of caution also apply to the material we are releasing today.

As with phase 1 of the study, phase 2 is not a totally exhaustive document. However, it does give you a preliminary idea of where the data suggest the redistributive effects might be going.

Mr. Chairman: Thank you very much, Mr. Nixon.

The next group we have is from sunny British Columbia. I trust that is the case. Exhibit 21, William R. Brown and P. R. Brown.

Mr. Brown: No, my name is William R. Brown and the firm is P. R. Brown.

Mr. Chairman: All right, sorry.

Mr. Brown: My great-grandfather has been dead for 60 years.

Mr. Chairman: Okay.

We have a brief that is exhibit 21. Now would you identify yourself, as you have already done, for purposes of Hansard, and read from the brief, leaving sufficient time for members to ask questions?

I have a problem. I have exhibit 21, but it is a Saskatchewan brief.

Interjection: Saskatchewan is 20, but it now has a 21 on it.

Mr. Chairman: Let me check with the clerk. Just hold on for a second, Mr. Brown. The clerk is going to have the exhibit reproduced. It is 21, but through a blip it wound up as a reproduction of the Saskatchewan brief. I guess it was so good that we reproduced it twice.

If you would like to start with your brief, I think we can all listen to you and catch up to you when we get the brief.

INSURANCE AGENTS' ASSOCIATION OF BRITISH COLUMBIA

Mr. Brown: My name is Bill Brown. I am president of the Insurance Agents' Association of British Columbia and president of P. R. Brown & Sons Ltd., a family firm that has been operating in Victoria for the last 87 years.

First of all, I would like to compliment the Legislative Assembly for striking a committee and also thank you for asking for comments from British Columbia.

To begin with, I would like to read my report, which will take only a few minutes. Since you do not have a copy, I will try to go slowly.

The Insurance Corp. of British Columbia is headed up by its president, Tom Holmes, and consists of the minister responsible for ICBC, the president and seven directors selected from the business community as its board of directors. There are no agents, adjusters or company representatives on the board of directors.

ICBC has its head office in North Vancouver, with resident marketing representatives in claims centres located in many larger centres throughout the province. Its mandate as a crown corporation is to provide quality insurance coverage to motorists of British Columbia at cost, with revenues and expenses in balance.

Its method of doing business is that from ICBC's central computer, renewal certificates are mailed directly to all insureds, who then take these to an independent broker for processing. There is a facility for direct mail renewals, but it is not significant and generally not utilized.

The renewal certificate incorporates the licensing of the vehicle with a requirement for either a decal or new plate, whichever is necessary in that year, and renewals can be for six months to a year, at the insured's option.

For a monthly fee, independent agents can utilize ICBC-provided computer hardware or can interface with owned compatible hardware at a line charge to enable direct on-line access and processing renewals, endorsements, transfers and new plate policies.

Independent brokers furnish all service to the consumer, including the collection of social service tax on transfers, collection of any arrears in premiums, subrogation amounts on claims and fines for driving infractions. All moneys are deposited directly to the credit of ICBC.

Claims centres provide telephone emergency lines for after-hours emergency assistance. Routine claims reporting is done by telephoning the claims centre for an appointment and the insured attending at the centre for determination. Most physical damage is repaired by authorized ICBC repair garages or auto body shops, and the consumer chooses which authorized shop will do the work.

Payment from ICBC is directly to the repair facility, with the insured paying the deductible. Heavy equipment claims are normally handled by specialists at their head office. Bodily injury claims are also handled at the claims centres but are referred to the head office regularly. Serious BI claims or those involving litigation are handled at head office.

Independent agents and brokers do not become involved in the reporting or closing of claims unless the consumer is having difficulty and requests assistance or if he is drawn in due to an error or omission in coverage, rating or other breach.

With respect to its public image, aside from the political conviction, at the present time there is not vocal public discontent over the existence or operation of ICBC. Other concerns, however, which draw public criticism from time to time are:

1. A lack of choice, or the monopoly aspect of the compulsory coverage.
2. The difficulty in proving a clear driving record on motorists transferring to British Columbia from elsewhere. The onus is on the motorist to prove his record, and generally this is not done prior to registration of the vehicle and the inception of the insurance coverage. Thus, initial out-of-province vehicles registered in the province are given no discount. Refunds are granted when proof of previous record is provided.
3. Mid-term cancellations require the insureds to wait for their

refunds, which are mailed directly from the corporation. At one time this could take up to six months, but improvement in the system because of public, political and broker demand has improved this to an average of three weeks.

4. With a 6.5 per cent average premium reduction in 1986, minor increases in 1987 and a large increase in 1988, the public perception is that political influence is the major factor in rating.

5. There are no independent adjusters, as all adjusters work exclusively for the corporation. From the broker's point of view, there are 850 Autoplan appointments in the province. Brokers in the province generally express satisfaction in dealing with the corporation in spite of the political dilemma of not being in philosophical agreement with the monopoly aspect of government involvement.

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On the positive side, from the broker's viewpoint, there is:

1. No concern about insurer insolvency;
2. No lack of market for all classes of motor vehicle insurance;
3. No discrimination between brokers--all have the same rates and the same access to all classes;
4. No discrimination in rating or acceptability based on age, sex or marital status;
5. No restriction on policy limits for third-party liability from the compulsory \$200,000 to \$15 million, inclusive;
6. No return commissions on mid-term cancellation;
7. No mid-term cancellation at the request of ICBC;
8. Interface with brokers' offices with on-line computers for larger transaction volume offices and telephone access data capture system for smaller offices;
9. No bad debt or collection problems;
10. No claims problems for brokers;
11. Less time spent on automobile insurance, leaving more time to develop other lines;
12. No competition from direct-writing companies, as they all abandoned the province when the government auto insurance arrived; and
13. Joint cost-sharing in some advertising programs.

There are, however, some aspects of the corporation which do cause frustration to some brokers:

1. The broker does not receive the benefit of premium cash flow.
2. Brokers are not encouraged to become involved in claims and do not

have draft authority, even though such involvement would often benefit the consumer.

3. The corporation is very slow to move on introducing new or innovative products.

4. There is no deemed agent of record except on some large fleets, which opens up some errors and omissions exposure for agents.

5. There are no profit-sharing possibilities because loss ratio by agency is of no concern since there is no underwriting.

6. Off-highway or some vehicles which cannot be licensed are difficult to insure in the private sector because there is a lack of vehicle-related markets in BC.

7. Broker inventory responsibilities, such as the misuse of a decal or licence plate through employee theft or fraud, may cost the broker the premium or, in the case of a claim, the entire loss.

8. There is a lack of response in defence of brokers in litigation on E&O claims.

ICBC, because of its monopoly status, has been able to have a significant influence on safety and driver education in the province. Some of the programs which they have been instrumental in initiating could not have been so easily put into practice under any other system. ICBC, because it insures every licensed vehicle in the province and is a political arm, has a vested interest in reducing claims and improving driver education.

Many of these programs initiated by the corporation's traffic safety department are co-ordinated with other organizations, such as the Ministry of the Attorney General, the Ministry of Transportation and Highways, the Ministry of Education and the police. Almost all of these programs include some community involvement in schools, police, health services, workplaces and special groups.

The main thrust of this department is to: (1) increase occupant restraint-wearing; (2) reduce impaired driving; and (3) reduce high-risk exposure for young drivers. The mission of this department is to "effect behaviours which will reduce road-related accidents and claims."

Some of the current 1987 programs are: (1) mandatory seatbelt legislation and buckle-up campaigns; (2) "Don't Blame the Weather" campaign; (3) direct assistance to MADD, or Mothers Against Drunk Drivers, and the spring and Christmas counterattack campaigns; (4) "Turn on and Live" project, which is a lights-on campaign; and (5) traffic safety seminars for schools and community groups.

That ends the formal aspect of my report. I would be glad to answer any questions.

Mr. Keyes: Mr. Brown, thank you very much for attending from BC. It is interesting, in the capacity you hold and that of the last person just before us from Saskatchewan, I seem to sense a fairly different attitude towards the government-operated insurance in British Columbia from that of the brokers in Saskatchewan.

One aside question, not my main one, is whether or not any of you in your own firm happen by chance to operate brokerage firms outside of the province. We did have that situation here last week, which I thought most revealing, when a gentleman representing the brokers operated not only in Manitoba but also in Ontario. So I had a great way of making comparisons. I wondered if you had a chance to do that in your own operation or with some of your fellow brokers.

The other one was, have you had a chance to look at our Bill 2 and to make comments upon it, because we attempt to build on the strengths of other systems and at the same time meet the objections that the public has about high costs of insurance? I do not know whether you have had a chance on that one.

The third one--and then I will go back for you and then go on; we did not get a chance with the last one to ask, but I had wanted to--is, what about the service centres themselves as they provide a service to the motoring public? Is there an extended length of time before their claims get dealt with and repairs are done? I believe the government operates the repair facilities, too, so it is not only the claims service but the actual repair work. That has been a cause for concern in some areas where that operated.

I will just put those three questions and go back over them. Is there any relationship between your own brokerage firms and those in Saskatchewan?

Mr. Brown: For my own firm, no. I was in business, however, prior to Insurance Corp. of British Columbia as our product has only been available for approximately the last 14 years. However, my involvement was not so extensive that I would be able to pass judgement on the merits of the system.

There was a great deal of resistance on my part. I was the vice-president of our local association at that time and we were very vocal against the concept of government monopolies and the whole prospect of government insurance in British Columbia.

Generally speaking, the reason you might find my statement a little more neutral or softer than Saskatchewan is that the agents I represent--and my statement is a representation of those agents--to a large extent have built their fortunes or their agencies on a system which has sold nothing but ICBC, a monopoly. Unlike a private situation, where if people find difficulty with an insurance problem they appeal to government to solve the problem for them, when government is providing the service, you are less likely to go crying to the government to solve your problems. That appears more self-serving than it is in fact. So they live with the situation and we absorb ourselves within the rules.

I would say there are not very many agencies that are BC based and that would operate out of the province. I would also say there are many that operate out of the province that do operate in British Columbia. The reverse is true, but the brokers mainly.

As far as your second question, on your Bill 2, I did read the bill.

Mr. Swart: I wonder if I could have a supplementary on that before we go to the second question. It will be very short.

I have a document in front of me which says in a brief to the minister last year, the minister responsible for ICBC, "The president of the

independent Insurance Agents' Association of British Columbia reports that 70 per cent of the membership wanted the ICBC auto plan left in its present form." Is that a correct statement?

Mr. Brown: It depends when he took his straw vote, but I would say the majority of agents in the province were against the privatization of ICBC.

Mr. Chairman: Mr. Brown, your answer to the second question.

Mr. Brown: The second question was with respect to your Bill 2. I did read Bill 2. I have a copy of it. I am not a lawyer, but it appears that what you are trying--

Mr. Chairman: It is probably better if you are not.

Mr. Brown: Yes. The problem I can see with Bill 2 would be that you propose to set rating levels, minimums and maximums, within which companies would operate in Ontario. However, the business of insurance is one of statistics and only in a total monopoly situation could a corporation provide you with the kinds of data that you need in order to come up with appropriate minimums and maximums. It depends on the business mix or the product mix they are taking, their standard business and above-average business and substandard business; and unless you know exactly the percentages of your portfolio which are going to be standard and substandard, then I would say it would be extremely difficult for a corporation to provide the kind of information you would need to set out the rates for them. They probably will tend to be very conservative in their estimating.

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Mr. Keyes: But it will be done by the insurance industry at an insurance-wide hearing, so they will have the opportunity to make representation to that board to provide the data needed in order to set those ranges.

Mr. Brown: That is the only comment on Bill 2 that I can think of. With respect to--

Mr. Keyes: Repair facilities and claims centres.

Mr. Brown: The Insurance Corp. of British Columbia centres merely do the adjustment of the claim. They do not actually repair vehicles, to my knowledge. All of that is done by private industry and repair garages.

Mr. Keyes: Just so I am clear, they set the dollar figure and then give you the cheque and say, "Go where you like." In other words, you can fix it yourself or perhaps not.

Mr. Chairman: The cheque is sent directly, as I understand it, to the repairer and they just pay the deductible.

Mr. Brown: The ICBC adjuster evaluates the extent of the damage and assesses an acceptability of what is to be repaired. Then the claimant goes to a garage facility and says: "This is my claim. This is how much they have assessed for me. Fix my car." And they do it.

Mr. Keyes: So he has the freedom of choice to do it. But I am just trying to get at the payment side of it, because there are so many other

sides. Is the payment made by the insurance company to the repair person when the repair has been completed, and set at the limit they set, or does the owner of the vehicle get the advantage of being given his cheque and then it is up to him whether he gets Joe Blow in the backyard to repair it or whether it is done at one of the centres?

Mr. Chairman: The brief indicated that it is paid directly to the chosen repairer and all the insured pays is the deductible.

Mr. Brown: That is right. I do not think ICBC is in the business of paying money out to people who are not going to repair their cars.

Mr. Keyes: That is what I am getting at. So it goes to repair. You have a rather interesting system, I noticed there a week ago. You have a few acres of vehicles that sit impounded until such time as claims are settled against them, all claims from third party, etc., usually. There is a daily auction, I believe.

Mr. Brown: They are salvage vehicles, taken back on total losses. That is one of the areas that probably causes people a great deal of concern, the physical damage adjustment of claims in British Columbia.

The public has a feeling, I think--and this is my opinion as an agent and a person who deals with the public--that they are too stringent or difficult on physical damage claims, in write-offs and this sort of thing, yet too lenient on liability.

They are afraid to embarrass politicians, I guess, with too difficult a situation in liability.

Mr. Chairman: Before I call on Mr. Swart, are you going to have questions, Mr. Runciman?

Mr. Runciman: I have a few questions.

Mr. Chairman: OK. Recognizing that, Mr. Swart, you go ahead.

Mr. Swart: I, too, want to thank you very much for appearing here.

I am not sure this came out in your brief: In British Columbia it is optional to buy your insurance from the private sector if you wish, with the exception of liability insurance and perhaps certain others. If you wish, you can buy your collision insurance and all of your supplementary from the private sector. Is that right?

Mr. Brown: For those few companies which offer optional coverage in British Columbia, they do provide the market, and it is permissible.

Mr. Swart: In fact, more than 90 per cent of all the optional coverage is bought from the public system, according to the information I have.

Mr. Brown: Is that right?

Mr. Swart: I wanted to ask you about the increase in rates over the past five years. We know it has gone up an average of 20 per cent or 22 per cent this year. What has been the situation over the past five years? Do you have figures on that?

Mr. Brown: I do not have figures on that with me. In my report, I think I indicated there was a six or seven per cent increase in 1985-86. In 1986-87, there was virtually no increase.

Mr. Swart: I have a statement here signed by Mr. Monk, whom you know of course as the manager of media relations. It says that the average increase over the previous five years had been 2.5 per cent, up until this year.

Mr. J. B. Nixon: Is it not correct, though, that ICBC proposed substantial rate increases in the early 1980s? I think 38 per cent in 1981 and something around that in 1980.

Mr. Brown: Yes.

Mr. J. B. Nixon: So it really depends on the average number of years.

Mr. Brown: It does. If you take the average over the entire life of ICBC, that would probably be a better comparison.

Mr. Swart: Are you familiar with the--of course you are familiar, as a broker. Your fees are what, six per cent? Is that the fee you get for selling the ICBC auto insurance?

Mr. Brown: Our remuneration is based on a fee for the initial registration or licensing of the vehicle and the compulsory insurance coverage. Everything else is commissionable. The fee is a flat amount for all but basically the \$200,000 bodily injury coverage. Anything extra, the optional coverage, is paid at 11.5 per cent.

Mr. Swart: The annual report shows that the commissions amounted to six per cent. That would be average, of course, for the whole system. Would that be correct, or do you know?

Mr. Brown: They call them commissions. I would say it is probably accurate.

Mr. Swart: I would think it would be when it was in their statement.

You realize that in Ontario the commissions alone for the marketing of that--the insurance brokers get 11.6 per cent, on the average, according to the Insurance Bureau of Canada. So you would agree that as far as the marketing of it goes, there is a substantial saving under ICBC compared to what there is in the private system in Ontario, given that my IBC figure, 11.6 per cent commission, is correct.

Mr. Brown: Are you telling me that there is a difference between six per cent and 11 per cent?

Mr. Swart: Yes.

Mr. Brown: I would agree there is a difference, yes.

Mr. Swart: Yes, just about half.

Are you familiar at all with the annual report from ICBC?

Mr. Brown: I browse through it when it comes out. That is about all I do.

Mr. Swart: It reports that their total expenses out there, including claims settlement, are 20 per cent of the total premium, compared to 36.5 per cent provided by the Insurance Bureau of Canada here, which is low according to my computation.

Mr. Chairman: Again, Mr. Swart, he has not read it. As with the former witness, he really cannot comment one way or the other.

Mr. Brown: I will answer a little bit here. If, Mr. Swart, you are getting at the difference in commission and what we do out there versus what they do here in Ontario, certainly we get paid more than they do in Saskatchewan and we get paid less than they do in Ontario. However, we have no marketing problems.

I think it is clear in my report that there are certain aspects of dealing with ICBC that we are not concerned with: the availability of coverage to everyone, the simplicity with which the renewal document is handled in our offices with on-line computers to ICBC, printing of the form on the spot. There is no mailing after that. There is no endorsing their cheques or anything like that. Also, I think I made it clear in the report that there was no returned commission to the agent in the event of cancellation.

I would say that while you indicate some of those figures, the reason the agents in British Columbia are a little more supportive of ICBC is that they are being compensated a little better and a little more fairly than they are in Saskatchewan. But that does not mean to say they are sold on government monopolies or government insurance based on cost, because to my mind there is the cost of the product and then there is the cost to society in terms of freedom of choice.

Mr. Swart: We had comments from the representative of the Insurance Brokers' Association of Manitoba, although he made it clear he was not speaking for the association. They get five per cent of the amount of work involved, compared to the Ontario system. He had, as you already heard, an office in Ontario, and they probably received as much or more for their work there because of the simplicity of the system as well. I am not implying that the brokers are not doing a lot more work here. I am really implying that the cost of marketing is substantially cheaper because of the simplicity of the system. You may or may not want to comment.

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Mr. Brown: I would hate to stand in the gallows and be hung if I were wrong, but the rate comparison sheet I saw showed BC at \$700-odd average premium for some vehicle and a number of other provinces at \$500-odd. Therefore, when you are indicating in your synopsis that six per cent of the gross revenue to the corporation is paid out in commissions, it could be more like 10 per cent if they had the same kind of rates that were charged in other parts of Canada.

Mr. Swart: Yes. I would suggest that perhaps those figures may not be wholly accurate in that comparison and in fact the Insurance Corp. of British Columbia has indicated it does not agree with them at all. I do have the figure here, incidentally, set out by the Insurance Bureau of Canada with regard to the new rates in British Columbia. Once again, they are substantially lower than that comparison you have referred to, which was done by the Insurance Brokers Association of Ontario, a group that is not entirely disinterested in preserving the present system here in this province.

Mr. Chairman: Is there a question in that?

Mr. Swart: Yes, I am just trying to find the actual figures. I have them right here. The Vancouver Sun of November 20, 1987, after the new figures came out, did publish the new rates out there. This was sent out by the Insurance Bureau of Canada to all of the brokers in Ontario, the insurance companies in Ontario.

The Vancouver Sun gives the rates and the rate increases for three varieties of vehicle: the older vehicles, the medium-priced vehicles and the late-model, more expensive vehicles. The collision coverage deductible is \$300, the comprehensive coverage is \$100 and liability is \$1 million. They show that for the older vehicles the rates now are about \$380 for pleasure use only.

Would that fit in with the rates you have? Would you say that is an accurate rate?

Mr. Brown: I do not know. You have to give me a car and examine everything for that car.

Mr. Swart: I know the difficulty.

They also point out that for the medium-priced cars the average rate is about \$575 and on the late-model cars it is about \$625, compared to that--

Mr. Chairman: I think the witness will have the same difficulty with that question too.

Mr. Swart: The insurance brokers of Ontario had \$790, as the rate for comparison.

Mr. J. B. Nixon: Do you have a rate manual in front of you?

Mr. Brown: No.

Mr. J. B. Nixon: Can you make any comment on these figures at all?

Mr. Brown: No. The only comment I can make is that any of these comparisons, to my mind, are not worth the paper they are written on because there have been so many and each side refutes the other one. If you have information there from the corporation, it is going to give you a perfectly legitimate and worthwhile example, and you will believe in it, that its premiums are less, and yet you get information that will equally stand on its own from the other side and it will show that they are less.

The factor that makes it so difficult is that, for example, the total population of vehicles in British Columbia is just over two million. You have over two million vehicles within 100 miles of this seat I am sitting in. So you have a totally different exposure, a totally different weather pattern--

Mr. Chairman: All driving in the same direction at about this time, I would think.

Mr. Swart: You would probably agree, though, the rate of accidents per 100 cars in Ontario is lower than it is in BC.

Mr. Brown: I do not have that information.

Mr. Swart: You do not have that. You would agree with me, would you though, that, although the comparisons may be difficult, if you look at the total expenses used in operation, and if you have one system that only uses up 20 per cent of the premium in total operating costs and 80 per cent of that premium goes back in actual payment of claims--whether those are personal injury claims or whether they are property damage claims--and if you have a system that returns 22 per cent on investment, as Manitoba does according to the annual report, while Ontario only returns 12.8 per cent, if you have a system that has those two things, those two factors--a much larger return on investment and much lower expenses--that is a very accurate comparison of the efficiency of the systems and the cost to the motorist?

Mr. Brown: If the measure of success of government monopoly is the bottom-line cost of providing the product, then I would venture that you have to have an audit or something public. That statement may be audited, but I mean some kind of measure of comparison. Take the Insurance Corp. of British Columbia, for example. I do not know what they did with their building in North Vancouver that somebody had to build for them. They are now leasing it, but I do not know what their rent is either. I do not know who paid for their computer. I do not know whether they have paid back the compensation stabilization fund that they were provided with by the provincial government to begin with. There are these kinds of things. Unless you know the answers to all of that, I do not think I would like to believe their remarks that they are operating in such a lean area. They are highly computerized. There is no doubt about that.

Mr. Chairman: Mr. Swart, I think in fairness and pursuant to our agreement, I am going to move on to Mr. Runciman.

Mr. Runciman: Mr. Brown, you said you were around when the switch took place from the private sector operations to government-run. How about the number of brokers in the province? Has there been any change in respect to the number of brokers operating in the province that you are aware of? I know you mentioned the direct-writing companies abandoned the province.

Mr. Brown: Yes, Allstate, State Farm and so on. But I would say that the number of Autoplan outlets has probably increased because all motor vehicle branch offices are now, or still are, outlets for ICBC. There are a number of agencies who have found that, because of the nature of the product--it is a homogeneous product--it is convenience of location that is the important factor here. Getting it close to your wife's front door is the main item or the main way to make a successful agency. They even have mobile agencies operating out of suitcases and things, and dealers. I would say that there are probably more outlets but fewer agencies. The strong have survived and the weak have fallen.

Mr. Runciman: Yes. The Manitoba chap likened it to a convenience-store operation.

Mr. Brown: It is very much like that in British Columbia.

Mr. Runciman: You talked about politics. You probably heard the witness before you from Saskatchewan talking about the impact that politics does have on the process. I am wondering what your experience has been, especially leading up to an election period. For example, are rates kept down? When you see an increase, is it a year or so following an election?

Mr. Brown: To my mind--and I am speaking personally; I do not know

whether I have the support of my board--yes, there is a great deal of politics involved in the rate-setting. What you say is perfectly true because the people of the province blame the government for the increases in ICBC. There was a deliberate attempt, and it was successful, when the three per cent premium tax was instituted last year. The government had submissions from ICBC to add the three per cent mid-term through the year on all renewals that came along and the government said, "No." Part of the increase this year is an additional three per cent to catch up for last year.

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Mr. Runciman: Is that the only area? I know the previous witness mentioned he had heard that one out of every two claims was a ministerial inquiry in Saskatchewan. We are talking about a larger province here, so that is probably difficult--

Mr. Brown: I am from Victoria, and we are probably a little more political there because we have our legislative buildings in the city. The number I can think of on one hand that might get involved at the member of the Legislative Assembly level--as I say, there are lots of frustrations out there, there are a lot of people upset at the supposed claims-rated scale, which penalizes someone for a single accident even though he might have had 20 years' clear driving until that point. The loss of the entire discount of 35 per cent for a single accident--I believe it takes another three years to get that back.

Mr. Runciman: Although you say in your submission that there is not really vocal public discontent, I suppose there may be some change in that attitude with the recent increases we have all read about.

Mr. Brown: The government instructed the Insurance Corp. of British Columbia to instigate short-term policies this year, which was one way the corporation saw to mitigate the furore over increased rates. With short-term policies, it was thought that if someone could not afford the full term, they could buy a six-month policy or an eight-month policy, whatever it was: essentially, finance the premium. There is mixed response to date as to whether that is in fact happening.

Mr. Runciman: ICBC employees have the right to strike.

Mr. Brown: Yes, they do.

Mr. Runciman: I recall them having a strike a few years ago. What was the impact on the system when that occurred?

Mr. Brown: In British Columbia, the corporation will readily admit it is the strength of its brokers or agents that keeps the corporation in any kind of good light, in terms of the public. We are the middlemen. Basically, we picked up the slack in that period, backing up the corporation in terms of its administration, because with a large, single entity going on strike there is no place for the consumer to turn unless he turns to his agent and gets mad at him.

Mr. Runciman: How long did that strike last?

Mr. Brown: I can recall one that lasted a couple of months.

Mr. Runciman: You have had more than one.

Mr. Brown: Yes. I do not know the number--a couple of weeks, maybe, something like that.

Mr. McGuinty: In talking with both the representative from Manitoba and, a moment ago, from Saskatchewan, the point was raised about the difficulty of comparing rates. In both places, for example, there may be comparable rates charged for comparable coverage--comparable, that is, to Ontario--but we find there may be a surcharge levied when a person goes to buy a licence. Therefore, in a sense, that is a hidden cost.

I also raised the question with other spokesmen about whether there would be other ways whereby the provincial insurance program was subsidized out of other revenue. You raised an interesting point when you referred to the sophisticated computer equipment the program has and, indeed, I have seen that very impressive structure they occupy. I think you raised the question of whether the cost of the building and equipment is being paid for out of insurance revenue, written off over a period of time, or perhaps is paid from other revenue. Were you implying that?

Mr. Brown: I would hate to imply that it might be misstated in their financial statement, but I would question whether they could go and repurchase themselves and operate at the level at which they are operating now, at this 20 per cent or whatever it is.

As I say, their computer system is second to none in terms of its size and capacity and what it can do. They have interfaced with our offices and everybody else's. It must cost an immense amount of money to do that, and I do not know what their standard is in terms of writing that off or depreciation or anything else. Whether they are just taking operating expenses and no reserves for replacement of their premises or computer, I do not know. That would be a question to ask Mr. Holmes when he arrives at the end of the month.

Mr. Swart: I have a supplementary. You are aware, of course, of this, signed by the chartered accountants, Touche Ross and Co., in which they say this fairly represents the operations of the ICBC. To reiterate, you are not suggesting that in fact they have signed this and there have been subsidies which have come in which are not reported here.

Mr. Brown: Not at all. I would agree with them totally that they are probably generally accepted accounting principles they have used in there. The question is the figures in which they might have expenses. Again, Mr. Holmes is the one to ask the question.

Mr. Swart: Yes, obviously. That is why I have not pursued it.

Mr. Brown: I did say it was my opinion rather than the opinion of my association.

Mr. Chairman: Thank you very much. We wish you a safe journey back to British Columbia. Thank you for coming.

Mr. Brown: Thank you.

INSURANCE BROKERS' ASSOCIATION OF ONTARIO

Mr. Chairman: The next group to present before us is the Insurance Brokers' Association of Ontario: Frank Davies, Al White, Ken Martin and Terry Taylor. Gentlemen, would you like to come forward and have a seat. The spokesperson might identify all of the parties for purposes of Hansard.

You have exhibit 22, which is the written brief, the grey-covered document. Sorry, do you have it, Mr. Swart? I think you have it right there in your hand. Just lift up your left hand.

Mr. Davies: Ladies and gentlemen, good afternoon. My name is Frank Davies and I am the president of the Insurance Brokers' Association of Ontario. I reside in Brockville, Ontario, and own and operate DLK Insurance Brokers Ltd.

With me today is Al White, on my right, who is president-elect of the Insurance Brokers' Association of Ontario and owner of White and White Insurance Brokers Ltd. of Scarborough. Ken Martin, on my extreme right, is our association's general manager, and on my left is Terry Taylor, the assistant general manager.

We appreciate this opportunity of meeting with you today to participate in this process. I have given the clerk of the committee copies of our written presentation; however, I do not intend to read that submission today, nor do I want to dazzle you with any more facts and figures, as I am sure you have had enough of those from the industry associations which have preceded us. Rather, we are here as representatives of the consumers of this province, the people to whom you, as elected representatives, and we, as the insurance brokers, owe our first duty.

IBAO supports the concept of a rate review board, because we feel that it will bring stability to a marketplace which has been subjected to reckless and ill-considered competition in the past. Insurers have gone bankrupt, claims have gone unpaid and premium dollars have been lost because there was no control over irresponsible insurers. This does not in any way reflect upon the office of the superintendent of insurance. It is just to say that insolvencies have occurred because inadequate premium was collected as a result of unwise marketing initiatives.

We welcome the passage of Bill 2, as it will eliminate unwarranted business practices. However, we do have some concerns about the uniform classification system and some of the possible consequences if it is brought on stream in its present form.

We do not support the elimination of age, sex or marital status as a rating criteria. These criteria are actuarially sound and statistically justified, and we believe the Charter of Rights and Freedoms supports the concept of fair differentiation when these differences are in fact meaningful. Adoption of the so-called "unisex system" will lead to premium subsidization, with some groups of drivers paying more than they should to offset the losses in premiums from those groups of drivers who pay less than they should. The new system will result in winners and losers, but the preliminary indication is that the losers will lose more than the winners will gain.

I think it should be recognized, therefore, that the adoption of the unisex rating system is politically inspired and not actuarially sound. If implementation of the unisex system results in a public furore, as I suspect it will, the insurance industry could then rightfully say that it is not its fault, but the fault of the government.

I urge this committee to re-evaluate the consequences of the elimination of age, sex and marital status as automobile insurance rating criteria.

Second, we feel that parts of the classification system are hopelessly complex and that the public will be extremely confused. In our written submission we have made a recommendation which, if adopted, will go a long way towards eliminating this confusion. We strongly urge serious consideration of this proposal.

Finally, let me reiterate my concern that the new system recognize the principle of forgiveness. Forgiveness resulted several years ago when many consumers argued that the benefits derived from having maintained a perfect driving record for several years should not be lost, solely as a result of one minor accident.

Current statistics show that 80 per cent of Ontario drivers are rated as having had no accidents within the past five years. In fact, a third of those drivers have had an accident in the past five years, but the accident has been forgiven and, consequently, these drivers have not experienced any increase in cost.

This applies to a sizeable number of consumers and we believe that a public furore will result if the new system disallows forgiveness rating while at the same time it substantially penalizes, by way of increased costs, those people who have an isolated accident. We therefore urge you to recommend that either the principle of forgiveness rating be retained or that the increased costs resulting from one accident be minimal.

This concludes my oral presentation. In the time remaining, myself, Mr. White or members of the IBAO staff who are here with me today would be pleased to answer any of your questions. Thank you.

Mr. Cureatz: I am interested in your comments about the possibility of the political motivation of dispensing with the categorization of male/female under 25. I am just wondering if you might elaborate on that a little bit.

Mr. Davies: I think it is political. Actuarially, it is not sound. We recognize that there is more accident frequency and severity with this group; there always has been. I think it has been well proven by the industry. I am sure the facts have been presented to you.

I guess I am a person who believes in fairness. I do not mind paying a fair rate for coverage for what I fit in the category of.

Mr. Cureatz: So what you are saying is that doing away with that kind of categorization is going to put an extra burden of cost on some of the other premium people? If the good driver is over 25--

Mr. Davies: I guess that is one way of putting it. There have to be so many dollars put in the pot. Nothing in your Bill 2 does anything to reduce claims. There is nothing that I have seen that is going to change the number of accidents or frequency of accidents and the amounts of claims, so to generate the dollars, you are going to have to pick it up someplace. If you take it from this group, you have to add it to this group.

Mr. Cureatz: So you are just shifting responsibility in terms of money from one group.

Mr. Davies: That is right.

Mr. Swart: I just wanted to ask about political motivation, because somebody might be suspicious that some political motivation crept into the process before the last provincial election. I am referring to two respects.

One is the fact that the Ontario government decided to establish a rate review board after saying just a year ago this last fall that it would increase costs and citing the figures to increase the costs. I suggest there may have been some political motivation in your advertising during the last election and the position that you people took.

Mr. Cureatz: The question is--

Mr. Chairman: Put a question mark over that.

Mr. Swart: The question is--

Of course, one of the alternatives to the system we have in Ontario is public auto insurance. It is no secret to you that we have been promoting that extensively because we believe it is far cheaper and it has proved to be a much fairer system.

The insurance industry and some of the insurance brokers put out advertisements, etc., of which I have a number here, during the last election. I would like to ask you about some of that information because it deals with the whole matter of efficiency, cost, comparisons, etc. For instance, this pamphlet was put out by the insurance industry of Ontario. There is no address or anything of that nature. The same information appeared in some advertisement by the Insurance Brokers' Association of Ontario. You perhaps can comment on this. You state that government-run operations do have a reputation for low efficiency, poor service and bad morale. Could you tell me where you got that information from? What studies showed this?

Mr. Davies: First of all, I am not the author of it. Where the information came from, what survey, I do not know. Maybe some one else here on the panel can comment on it. Could we get a document?

Mr. Taylor: I believe Mr. Swart that this document was authored wholly by the Insurance Bureau of Canada. Perhaps you should direct your questions to them.

Mr. Swart: You mean you are not part of the insurance industry of Ontario? In fact, this same document was put out with the IBAO on it. I have copies of it.

Mr. Taylor: We can speak to the part that we had authorship of, but I do not think it is fair for us to speak to parts of which we had no authorship.

Mr. Swart: You cannot tell me, even though you use this kind of an advertisement, where you got information that the efficiency was low on those?

Mr. Chairman: Mr. Swart, I think, in fairness to the witness, the answer was that it was not done by them. I cannot see how someone can be indicted for what was done by someone else. As a matter of fairness, let us be fair to the witnesses.

Mr. Swart: I have a letter here from the Manitoba Public Insurance Corp. that might interest you. "Contrary to this allegation, I am pleased to report that MPIC's administrative expense ratio is the lowest of any major insurer in the country at 3.4 per cent of total expenses." That compares with 11.4 here in Ontario.

Mr. Chairman: Are you asking them to comment on that?

Mr. Swart: No, I am not asking them to comment. I will ask them to comment on a public auto insurance advertisement which appeared in the Lindsay paper and was put out by Frost Insurance Brokers Ltd., which had the same information as that which I just quoted to you.

It says: "In 1982, the Saskatchewan Government Insurance received a \$72-million subsidy." Would you tell me where that information came from?

Mr. Martin: We are not responsible for cost insurance.

Mr. Swart: I want to say that what we have here represented the Insurance Brokers' Association of Ontario. These big ads carried all of the same sorts of things and now you are saying you do not know where this came from. Surely you should be prepared to justify statements which your brokers have put out and which your association has put out and tell us where the information came from.

Mr. Davies: Our association did not put that out. It was an independent broker who put it out. I do not know without checking the record whether he is even a member of our association.

Mr. Chairman: If your analogy carries correctly, it would mean that if an automobile dealer put out something to attract purchasers to come to his place to buy cars, then General Motors would have to answer for where he got the information to sell his product. I am not sure that is fair and you are a very fair person.

Mr. Swart: I wonder. You are not prepared then to take any responsibility for advertisements that were put out by the Insurance Brokers' Association of Niagara Falls? Is that not a branch of your association?

Mr. Davies: It is a affiliate of our association.

Mr. Swart: They state the same thing, that automobile insurance in Saskatchewan was given a \$72-million subsidy in 1982. Can you tell us where that information came from, based on the Niagara Falls Brokers Association using it?

Mr. Davies: No. I will have to check with them where they got the information. You are talking about something that happened six years ago. I am not privy to that information.

Mr. Swart: I am talking about advertisements that were put out six months ago, not six years ago.

Mr. Davies: It is something that happened six years ago.

Mr. Swart: How did they know about a \$72-million subsidy for Saskatchewan automobile insurance at all.

Mr. Davies: I thought we were here to talk about Bill 2.

Mr. Cureatz: Not according to Mel Swart. He is doing a whole rambling cross-examination which is totally unwarranted.

Mr. Chairman: I was not prepared for Mr. Swart to ask you those questions. If you have no answer to them, I really do not see that--.

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Mr. Swart: Let me ask you this then. These came out from insurance brokers' associations and insurance brokers who are members of your association. Will you provide that committee with the information? Can I give you a list of what I would like the information on?

Mr. Davies: Sure.

Mr. Swart: Where that \$72 million came from, where the \$18 million subsidy in Manitoba came from. I will provide you with a number of--

Mr. Davies: If we can locate the author of the items, we will certainly do it for you. Niagara Falls is right down in your home town, so--

Mr. Swart: Of course it is, and I talked to the broker there and he told me to go to the insurance brokers' association.

Mr. Davies: I did not come prepared to answer those questions.

Mr. Chairman: You will provide that information for Mr. Swart's questions?

Mr. Davies: If we can find out the answers, I would be more than happy to provide it.

Mr. Chairman: OK.

Mr. Swart: Am I to understand that here we have the insurance brokers' association, which ran some very expensive ads on television and in the newspapers, some of which gave the same information I have asked for today, and you are not prepared to tell us about such misinformation as that Saskatchewan Government Insurance was given out of public revenue \$72 million? You cannot tell us here today where that information came from?

Mr. Davies: I am not prepared.

Mr. White: The insurance brokers' association of what?

Mr. Swart: The Insurance Brokers Association of Ontario. You have the Insurance Brokers Association of Niagara Falls, and I can get one of these. They were distributed with the Insurance Brokers Association of Ontario on it--IBAO.

Mr. J. B. Nixon: It might assist Mr. Swart if you gentlemen were to explain the structure of the IBAO and your relationship or nonrelationship with the Insurance Bureau of Canada and so on.

Mr. Cureatz: Mel is not interested in that. He just wants to grandstand a little bit.

Mr. Swart: I am familiar with the structure. I also know, of course, the tremendous advertising campaign that went on. Could the IBAO tell us here how much money was spent on the advertising campaign promoting this sort of thing in the last election?

Mr. Davies: IBAO did not spend any money on advertising.

Mr. Swart: Your affiliates spent it.

Mr. Davies: Our affiliates spent considerable money.

Mr. Swart: Yes. The Hamilton group spent \$200,000. Is that right?

Mr. Davies: I do not know. You are giving me the numbers; I do not know.

Mr. Chairman: I think we are going to run out of time for other questions you may have, Mr. Swart.

Mr. Swart: I do not have any more questions. When you have an association here that put on the kind of advertising it did and now will not substantiate a single statement that is made in those advertisements, I think it says something about the insurance brokers' association of this province.

Mr. Chairman: In fairness, I think one of the individuals did indicate to you that he would provide that information to you if the source of that information is able to be determined.

Mr. Swart: I will send a letter to the president of the Insurance Brokers' Association of Ontario with the specific questions related to these documents.

Mr. Davies: I also think, Mr. Chairman, you knew we were coming. If you wanted these questions asked, why did you not tell us? I thought we came to discuss Bill 2.

Mr. Cureatz: Mel would not have been able to grandstand.

Mr. Swart: It is not grandstanding.

Mr. Cureatz: Oh, yes, it is.

Mr. Swart: We are talking about \$3 billion in premiums to the motorists of this province.

Mr. Cureatz: This gentleman is probably right. If you were a gentleman, you would have written ahead of time.

Mr. Chairman: Would you address your comments through the chair? Thank you.

Mr. Swart: It may not be of concern to you, but I can tell you what the motorists--

Mr. Cureatz: I did not say that.

Mr. Chairman: Is that through the chair?

Mr. Swart: Yes, that is through the chair. I shall go through the chair.

Mr. Chairman: Thank you very much, Mr. Swart. I just wanted to make sure you were looking at me when you did.

Mr. Runciman: Mr. Chairman, through you to the witnesses, I am just wondering if you have seen the Mercer report, in terms of the possible impact.

Mr. Davies: I have just had a cursory look at it, but I think Mr. Taylor has had a chance to read it more carefully. I just got it in my hands a few hours before we got here.

Mr. Runciman: I do not have the preamble to that with me either, but part of the Mercer study, I believe, took a look at the Massachusetts system, which I gather is quite comparable to what the government is proposing in Ontario with respect to Bill 2. I am just wondering if your association has any knowledge of the Massachusetts experience.

I know one of the things that was mentioned was that about 60 per cent of the business is in Facility. Most of the major insurance companies are either out of the state or moving out of the state. I am just wondering if you have any knowledge of that situation.

Mr. Davies: I am aware of the fact that they have had a marketing problem to keep the companies there in the past but not current--maybe Terry has more up-to-date information on that.

Mr. Taylor: My knowledge of the Massachusetts situation is simply a general knowledge. It has been widely reported that an almost total control of the system has led to a drastic decrease in competition and severe marketing problems. Although I do not think Bill 2 goes so far that the results would be the same as Massachusetts, I think there are some analogies.

Mr. Runciman: You have expressed your concern about doing away with age, sex and marital status as part of the classification system. One of the complaints we have all heard as politicians over the years is about the male driver under 25 who is a good driver, that we are tarring everyone with the same brush.

Do you have any alternative to suggest to the government? Rather than simply doing away with those methods of discrimination, if you will, which I think are fair methods of discrimination--I want to put that on the record--is there any way of improving upon that so the good drivers who fall within that are not also penalized because of the history of the whole age group?

Mr. Davies: My overall idea of reducing the cost of insurance, and that is really where the bottom line is, is to have a reformation of the tort system. Let us reduce the cost of claims. That would be a big start in the right direction.

Mr. Runciman: That is across the board. I am talking about the specific area of the under-25 males.

Mr. Davies: Do you have something else, Mr. White?

Mr. White: No, not really. Actuarially, you could break it down finer, but so fine that the system would be totally inoperative. You could have a rating system for every age from 16 to 90, and I think that would be completely inoperative. I do not think we have an alternative to that without thinking an awful lot about it.

Mr. Taylor: I think there is some merit that you find in other jurisdictions, that you are innocent until proven guilty. You start off with having no accidents, no convictions and no demerit ratings against you. The problem with going to that type of system actuarially is that the penalty one would incur for having an accident would be so great that the person could not come up with the financial resources at 16, 17 or 18 to pay for his insurance, having had the accident. The blending of the premiums now, to start them off at a higher amount of money and let the class rise and fall on its own two feet, does somewhat address the problem of an individual having an accident and not being able to come up with the resources to pay for his insurance.

Mr. Chairman: Do you have a supplementary?

Mr. Keyes: It is not a supplementary. I just wonder how they rationalize the fact that they do not want to do away with the age and sex discrimination, yet at the same time they still want to concur with the forgiveness on accidents, even a fair number of accidents, two or three perhaps in a five-year time span. How can they support that system? It may be that that person has had a manslaughter charge with his vehicle or it may have been impaired driving. They are the ones who should be paying more for their insurance, but you are prepared to say they should have that forgiveness factor. They just seem to argue against one another.

Mr. Davies: The two do not relate. The forgiveness, which the people of Ontario have become accustomed to, is mostly in the minor accident area. You mentioned manslaughter and impaired driving. I do not think the rules allow a forgiveness where there is a Criminal Code charge, for starters.

Mr. Keyes: I am not in that field.

Mr. Davies: We are talking about the minor fender-bender in the shopping centre lot, where there is \$300 or \$400 damage. We talk to those people every day.

Mr. Chairman: Just to follow up on that, surely if a person were killed but there were no criminal charges laid whatsoever, Mr Keyes's question is in order, that that might be a forgiven accident.

Mr. Davies: If there is a Criminal Code charge?

Mr. Chairman: Is that not correct? I think that is accurate and that is perhaps what Mr. Keyes was getting at. Maybe you could answer it in that vein.

Mr. Davies: Is Mr. Keyes asking me if there is a Criminal Code charge--

Mr. Chairman: No. If there was an accident and someone unfortunately was killed but there was no criminal liability or even Highway Traffic Act liability arising out of it. Let us say a child darts out in front of a car from between two cars and--

Mr. Davies: I suppose there is a forgiveness in that example, yes.

Mr. Chairman: --this guy cleans off four or five cars along with it.

Mr. Davies: And no charges were laid? I guess that would be forgiven. It is hard to get a scenario that bad with no charges.

Mr. White: I cannot believe that in that scenario there would be no charges laid at the scene.

Mr. Chairman: If a child darted out from between two cars without any notice to the driver, I suggest that if there were any charges laid, they would be inappropriate, without any knowledge of it happening.

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Mr. Swart: As a supplementary on that, would you agree with a system that in fact did give forgiveness on the first minor incident, whether it was loss of points or whether it was a minor accident where what the operator did was not serious?

Mr. Davies: That is what the consumers of Ontario have now.

Mr. Swart: In some cases.

Mr. Davies: Forgiveness, yes.

Mr. Swart: Do you favour that?

Mr. Davies: Yes.

Mr. Swart: They have that, of course, in Manitoba, Saskatchewan and British Columbia.

Mr. Chairman: The brief indicates that, Mr. Swart. Mr. Runciman, we are going to go back to you.

Mr. Cureatz: Could I have a supplementary?

Mr. Chairman: Why not?

Mr. Cureatz: I did want to clarify one more time in my own mind that you can suggest no alternative and only suggest that sex discrimination should remain because it is actuarially sound, but you have not pursued it at all. Or if you have pursued it, you are still quite adamant that it should remain as one of the bases. I like the idea of fine-tuning. I am a little surprised to hear that even a minor fine-tuning cannot alleviate some of these concerns, as the bill is trying to do.

I am just trying to tell you that the situation we have is that, more than likely, we are going to get the bill. There is no doubt about it. So if I were in your position, I would be coming to the committee trying to reach a compromise so that all points of view, from your side, are at least addressed and maybe alleviated. You are coming in and saying: "It is wrong. It remains actuarially sound; therefore, do not do it." They are going to do it anyway.

Mr. Chairman: Is that a supplementary or is that advice?

Mr. Cureatz: The supplementary is, do you see no validity in trying to fine-tune it?

Mr. Davies: As far as we are concerned, there is no valid alternative to this. After all, the present system is the fairest you could have. Everything is based on actuarial numbers and facts and historical information. Once you do away with that and use a blending process of any kind, you are moving away from the facts and statistics.

You often ask your customers, "Are you satisfied to pay more to lessen the rate for the younger drivers?" A lot of people are not. I am just telling you the way it is out there. We are asking you, are you really certain that is what you want?

Mr. Runciman: It appears to me that there is a bit of a difference of opinion between the brokers' association and the representatives of the insurance industry who have appeared before us. You have not expressed a great deal of concern about a rate-setting board versus a rate review board.

You may know that our party is very much opposed to the concept of a rate-setting board. We think it is too much of an intrusion into the private sector. My colleague mentioned recognizing the realities of the current parliament. Perhaps that is one of the reasons you are not opposing it: It is apparent that we are going to be faced with it. I am wondering if there are any other reasons you have not expressed any opposition to rate setting versus rate review.

Mr. Chairman: Does anyone care to take a stab at that?

Mr. Taylor: If I may, my understanding of the process is that there will be wide consultation with the industry, the rates will not be set behind a locked door in the middle of the night, and the industry will have fair and ample opportunity to prove its case. We are satisfied that the rates are going to fall along the dictum of the act that they will be fair and reasonable and not inadequate or excessive. If rates do become so, that is more than they are now.

Mr. Runciman: It may have been mistake on his part or a slip of the tongue, but the fellow who was here before us from British Columbia said that brokers have made their fortunes on ICBC. You mention in your submission a stable marketplace, so I guess there are some obvious advantages to brokers in that respect, but I have to wonder about the advantages, perceived or otherwise, for consumers in this province.

One other area that I want to make reference to is the smart no-fault, which I think you also endorse, along with tort reform. It seems to me a bit of a contradiction on page 3, where you talk about a free enterprise system, where irresponsible drivers should pay, etc. To me, an extensive no-fault system is where no individual is liable or responsible for his or her actions. The cost of risk is distributed among all members of society, which seems to me to go against what you are saying here, in respect to the responsibility element. I would like to hear your comments on that.

Mr. Taylor: I guess it should be understood that we do not support both. We have our priorities. Our official position is that we would encourage that the present tort system be refined and that some of the warts be taken out of it, but if the decision was made that they were going to toss that system out and move to a new system, we are advocating that new system be a

modified no-fault plan as opposed to a system that might be more appropriately advocated by Mr. Swart. That would, perhaps, be our last option.

Mr. Kanter: Towards the end of your brief, there is a release that talks about some of your concerns about practices of insurance companies. I think it is the second-last page of your brief. You state that you look forward to the day when insurance practices will be determined primarily by mathematical analysis, rather than the reckless marketing initiatives used previously by some irresponsible insurers.

I am wondering if you could elaborate for this committee, without naming individual companies, the kinds of practices that may have gone on, and second, give any comments you may have on the impact the rate review board that this bill proposing establishes would have on those reckless initiatives carried out by irresponsible insurers.

Mr. Taylor: I think we were referring there to practices by some insurers--which, I might add, are no longer in business because they went bankrupt--that we call buying the business: charging a premium that is mathematically not sufficient to support the risk assumed. It is easy to write insurance if you offer a low price. It is a lot more difficult to substantiate that price vis-à-vis the risk. What we hope will result from the passage of Bill 2 is that buying the business or charging an artificially low premium to entice the client to book the business will no longer occur.

Mr. Kanter: There was some information before us from the Consumers Association of Canada that where rate review boards are in effect--and I presume they often use the same sort of criteria of rates that are fair and equitable and that kind of thing--they reduce costs by, I think, about 14 per cent. This was based on various American jurisdictions.

If that were the case--and I do not know whether your association has any experience with that, given their survey of other jurisdictions--would you not agree that such a rate review board could, in fact, produce more winners than losers if you are talking about a reduction or total amount of premium dollars paid? While there would be a redistribution, would there not, in effect, be more winners than losers?

Mr. Davies: The problem I have with it is that you need so much money in the pot. It still has to come from the same source, and that is the consumer. Redistributing it is not going to reduce the cost of insurance. The overall cost requirement is to pay the claims. How are you going to have a reduction and a rate board? The rate board is still going to have provide sufficient funds to pay the claims, is it not? It is a mathematical calculation, as far as I am concerned.

Mr. Kanter: You made the statement--and I found no grounds for it--that there would be more losers than winners. I found absolutely no basis for that statement. Perhaps I should just ask what the basis was for your statement that there would be more losers than winners.

Mr. Davies: Let us say the biggest losers on this are going to be the people over age 25. They are going to have to pay more to support the other age. The population spectrum is greater in that group.

Mr. Kanter: Would the case not be that in many cases younger male drivers would have a very large reduction in premiums and a much larger pool of older drivers would have a relatively small increase in premiums. Is that not in fact true?

Mr. Davies: There will still be more losers than winners.

Mr. Kanter: More in terms of numbers but fewer in terms of--

Mr. Davies: You can do what you like with numbers, but there is a greater population of people between age 25 and, say, 65, than there is between age 16 and 25.

Mr. Chairman: Thank you very much for coming before us. We will take what you have had to say in consideration with all the other briefs in reference to the bill.

Mr. Davies: Thank you for giving us the opportunity.

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FACILITY ASSOCIATION

Mr. Chairman: The next group is the Facility Association, Mr. McKay and Robin B. Cumine. Are Mr. McKay and Mr. Cumine here? I am not certain if I got a positive response to whether they are here or not.

Interjection: They are.

Mr. Chairman: Oh, all right. Would you please be seated and identify yourselves for purposes of Hansard? We appreciate receiving the background information, which we will read to ourselves quietly, if we may. You could perhaps indicate who will be presenting the brief and then leave enough time for questions to be asked by members of the committee.

Mr. McKay: My name is Donald McKay. I have sent around a little résumé of who I am and what I did so that you may know what sorts of questions I am able to answer and what I am not able to answer.

On my left is James MacPherson, our technical services manager. On Jim's left is Mrs. Georgette Chan, our operations manager, and on my right is Sam Manji, our controller. These represent the three departments of the Facility Association, and I am the general manager.

We have a very small staff of 18 people. Despite that, we are probably the third-largest auto insurer in Canada behind the Insurance Corp. of British Columbia and the Co-operators. We are about the third-largest in Ontario as well.

Our business is conducted in seven jurisdictions from this central office in Toronto. We do not have any offices outside of Toronto, but we have what we call provincial operating committees and they carry out business in the jurisdiction.

One of the things that we want to try to do is to take out any mystery that might be associated with the Facility Association, and I will be presenting that in detail. We also want to try to take out any mystery, if there is any, in the world of automobile insurance. It seems to be terribly misunderstood or convoluted in the minds of so many.

It is really such a simple thing. It is just operating in a fiduciary capacity to hold premiums for people and then pay their claims out of those premiums. It is a very simple, straightforward business that perhaps, through the jargon we employ, we have made quite difficult.

There is an insurance jargon which we use, probably so we can understand one another--the same as the accountants have a jargon and the computer people have their own jargon, lawyers have their jargon and I presume politicians have their jargon--but one of the problems we have is that, when we get into a group like this, if we start talking among one another, we can kind of shut out our audience because we use terms they do not understand.

Actually, what I would like to do when I am doing this presentation is have you just say, "Hold on; I don't understand what you're saying." Let me know what your question is and I will try to expand on it, because we want to be very clear and straightforward.

We are very pleased, actually, to have this opportunity to appear before the committee and comment on the Ontario Automobile Insurance Board Act. We are not unfamiliar with it. Jim has been on the technical advisory committee and I am on the deputy minister's advisory committee on the act and on the classification committee, so we have been dealing with it for some time. That is not to say we like it all, but we understand where it is coming from and what it is intended to do and, by and large, I think we agree with most of it.

We would like to commend the government of Ontario for its initiative in this respect. Legislation of this nature is in place in other provinces in which the Facility Association conducts business, and our rates of premium and other considerations have been subject to the approval of boards of public utilities in New Brunswick, Nova Scotia and Newfoundland, an automobile insurance board in Alberta and the superintendents of insurance in Ontario, Prince Edward Island, the Yukon and the Northwest Territories. The Facility Association does not promulgate any rate or any rule that has not been approved by the supervising body, the provincial government or the territorial government.

The establishment of a board in this province should not only validate automobile insurance premiums to the consumer but also assist in stabilizing the automobile insurance industry and, to that extent, provide additional consumer protection; that is, not only should there be this business of rates not being excessive but also they should be adequate so that consumers do not have insurance company failures, with all the confusion that attends that particular operation.

As you will have observed, the bill we are discussing makes several references to an insurer or insurers' association or the Facility Association. To clarify the mandate of the Facility Association, we would like to cover these particular basic points: What is the Facility Association? What has the Facility Association cost the industry? What are the characteristics of the Facility Association market? What do members of the public pay when they are directed to the Facility Association? Obviously, I answer my question here. Why do they pay higher rates than the regular voluntary market? What percentage of the business is directed to the Facility Association? What percentage of insureds should be directed to the Facility Association?

In that order, first, what is the Facility Association? It is a legal entity established by the automobile insurance industry and recognized under the provisions of the Compulsory Automobile Insurance Act, Revised Statutes of Ontario, 1980, chapter 83. The association operates as an underwriting pool and was established for the purpose of ensuring that contracts of automobile insurance would be available to all owners and licensed drivers of motor vehicles in Ontario where such owners or drivers were unable to obtain automobile insurance through the voluntary market.

This is a spinoff from the Compulsory Automobile Insurance Act. Obviously, if the legislators say automobile insurance is compulsory, then the insurance industry has to respond. Since various underwriters have different specialties and there are problems in underwriting some kinds of risks, we had to make some provision that everyone would be insured.

What has the Facility Association cost the industry? There were 116 insurance companies underwriting automobile insurance in 1985. That was up eight from 1984. We are using 1985 distribution now. These companies share in the assets and liabilities of the Facility Association proportionate to their share of the automobile insurance business.

I will explain that briefly. If you have one per cent of the automobile insurance business, then you share one per cent of the liabilities or assets of the Facility Association and so on. You have probably looked at statistics. Probably 85 per cent of the insurance is handled by the first 15 companies in Ontario. The rest of them have very small proportions.

Since commencing operations in Ontario in October 1979, the total underwriting loss which had to be absorbed by the industry was \$197.154 million. This amount is substantially in excess of any investment income, particularly since when you start out, you do not have any investment income. We have only built up that investment income and started our own investment income operation--was it late 1986 or the beginning of 1987 when we started that portfolio? The beginning of 1987. As you see, the money was going out faster than we could get it into investments. In 1982, the underwriting loss was \$14.986 million, then \$32.485 million, then \$44.304 million--then they hired me--then \$39.868 million, then \$28.504 million and then \$8.359 million.

Mr. Keyes: It was either that or an incomplete figure in 1987, by chance, because there is a dramatic change.

Mr. McKay: Yes. It is a complete figure in 1987 because our year-end is October 31. We go from November 1 to October 31, and that is what these figures represent. We do that so that the figures will be available to the insurance companies to put into their year-end reports, because we take a couple of months to get them out.

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With respect to 1987, we had an investment income in 1987 of \$11,323,000--it is not in your paper, but it is the truth--that was attributable to Ontario. So in Ontario there actually was a gain in operations, in the surplus, of \$3,200,000. It sounds like a lot of money, but Sam will assure you that our daily claims payout averages \$800,000, so \$3.2 million is four days of claims payout. We think we got about as close as we can get. An adjustment in a couple of reserves or a couple of bad court decisions would wipe that out.

Mr. Cureatz: The witness indicated he would not mind questions as we go along. I wonder. I am a little confused in terms--well, I am waiting for someone to say, "confused all the time." I have to be my own straight person, I think.

What did you invest in?

Mr. McKay: We invest solely in government bonds, really. Sam, what would you say our portfolio was?

Mr. Manji: Government bonds, provincial and Canada.

Mr. McKay: The reason we do that is that we are a fiduciary. This is not our money. We cannot go into things like stock markets, properties or anything like that. We have to have the money immediately there. For instance, if we are broken up, it has to be disbursed back to the companies--to the claimants, actually. We cannot do anything rash. Our investment return is what? about eight point--

Mr. Manji: In the eight per cent range.

Mr. McKay: In the eight per cent range, 8.1 per cent or 8.2 per cent. It is not a big return that you might have got if you were playing with the Toronto Stock Exchange. On the other hand, we have still got it, so we are better off.

Mr. Cureatz: I felt Mr. Keyes might have indicated about the substantial difference from 1986 to 1987, and I do not think in my mind I was clear as to why.

Mr. McKay: You want to know why?

Mr. Cureatz: Outside of the fact that you were hired.

Mr. McKay: The other thing is--and I have to be very fair with you--we had a very substantial rate increase in 1986. Was it 28 per cent?

Mr. Cureatz: Do you hear that, Mel?

Mr. McKay: Yes, it was 28 per cent. The last rate increase we got was on May 1, 1986, so we have not had one since then, but that has flowed through. Now, we had another rate increase, but not in the general business, of 40 per cent on September 1, 1986, on the taxi business. So there were those two rate increases, and I think that has offset a lot of the losses.

Mr. Cureatz: So you tell your insurance companies that you are having substantial losses, say, in the taxi business. Therefore, the individual companies--no, but they are not insuring the taxis anyway, or at least if they are--

I do not understand how that flows through. If an insurance company is not insuring the taxi business and then they send them to you--

Mr. McKay: We insure them. They get their proportionate share back once a year.

Now, can I move--

Mr. Cureatz: OK, but who is paying?

Mr. McKay: I think we are getting off the track, if I may, with all due respect. We have a really good special discussion on taxis, if you want to get into that, because we like that business.

Mr. Cureatz: That is fine.

Mr. McKay: In addition to ensuring the availability of automobile insurance to all owners and licensed drivers, the Facility Association has as

a basic objective the reduction of the cost burden on the insurance industry and the requirement that all applicants receive uniform treatment through the use of a uniform rate manual.

When I talk about cost reduction, that eventually goes to the consumer. There is no free lunch. You cannot pass costs off to an insurance company and not expect to find them back in to the consumer's pocket in some way. So we have as a basic objective cost reduction.

How does the Facility Association operate? This may assist your question. The Facility Association contracts with certain automobile insurance companies to act as servicing carriers, and in Ontario there are 11 such servicing carriers.

Now, this is what they do. They take the applications from the brokers, they issue the policies, they endorse them, they collect the premiums and they adjust the claims. They do everything that a normal company does except that they do it on our behalf.

We pay them just as subcontractors for doing that. They get their losses right out of the pool, right out of the concentrated bank account. They receive an allowance of 10 per cent of earned premiums--that is not written premiums--for adjustment of claims and a nine per cent fee for policy handling.

Cost efficiencies have been achieved. I might say the internal administrative costs were less than one half of one per cent of the net premiums in 1987; so it is not a cost burden.

Guarantee of market availability to all owners and licensed drivers is achieved by assigning each registered insurance broker to a particular servicing carrier. Generally, the broker's choice of servicing carrier is granted. If a broker says, "Can I have this servicing carrier?" we generally grant it. It is typically a company using a marketing technique familiar to the broker. Thus, any applicant has access to a servicing carrier through any registered insurance broker in Ontario.

For example, the Co-Operators salesmen operate through Co-Operators. That is an appointed servicing carrier. State Farm people operate through State Farm. Independent brokers, such as you discussed before we came on, would operate through companies like the Royal, the Guardian, the Commercial Union, the Canadian Surety, the Dominion of Canada, the Canadian General and those specific kinds of companies. They are familiar with the billing and are familiar with how the company operates and we think that is only the fair way to do it.

Uniformity of rating treatment is provided by distributing a Facility Association manual of rates and rules to all brokers and servicing carriers, so that following approval of rates by the superintendent of insurance in Ontario, rates are prepared and promulgated in accordance with the requirements of the Compulsory Automobile Insurance Act, chapter 83, Revised Statutes of Ontario 1980, section 10.

Coverages available are such as to ensure the availability of automobile insurance as required by law. Maximum limits of \$1 million inclusive for third-party liability are allowed, but higher limits will be provided when required by Canadian federal or provincial statute, by regulations issued under the authority thereof or by municipal bylaws.

This is typical in the taxi business. For instance, Mississauga had a requirement that taxis carry \$2 million worth of liability insurance. Toronto has a requirement that they carry \$2 million liability insurance, but the Metropolitan Licensing Commission only takes \$1 million, so we provide \$1 million. Whatever they want, we will provide and I think they do this because of the cost problem.

The Facility Association has also undertaken to permit limits for third-party liability of up to US\$5 million, which is about C\$7.5 million, to permit special filing requirements of the United States Interstate Commerce Commission. Naturally, the interstate haulers that come to the Facility Association do not have to file--actually, 49 states because we have several going from Alberta through to Alaska and then the other ones going down south. We have all those filings to do.

Collision and other physical damage perils are written subject to deductibles and accident benefits are allowed to the extent that they are prescribed by statute. I did bring a little breakdown that we did. I thought you might be interested in what people buy in the Facility Association. I have a computer printout. It is a little hard to read but it is there if anybody wants to see it.

This is just private passenger vehicles. We will look at Ontario. The minimum limit is \$200,000. There are 25.37 per cent of our policyholders who buy \$200,000. Interesting enough, 25 per cent of our personal auto policyholders are young adults, male or female, under 25. Of course, their cost burden is higher, so I suspect most of them are the people who buy \$200,000, simply to keep the cost down, and of course for the other requirement, they have very few assets to protect. They would not buy \$200,000 unless the province required it. They would be like Missouri and buy five, 10 and one, if it were available. So 25.37 per cent buy the \$200,000.

For some strange reason, 7.63 per cent buy \$300,000. The big bulk of our policyholders buy \$500,000 inclusive liability and that is 56.02 per cent. Only 10.98 per cent buy the \$1 million.

In the commercial business, it is quite the other way around. Only 6.73 per cent buy \$200,000; 3.76 per cent buy \$300,000; 48.88 per cent buy \$500,000; and 40.63 per cent buy \$1 million. We have a small percentage, I would guess probably less than five per cent, who buy over \$1 million, and these are to a great extent haulers of hazardous wastes or hazardous goods, volatiles, that have to file with the Interstate Commercial Commission, where the limit for filing is US\$5 million, or buses with over 54 seats; why 54, I do not know, but if you have more than 54 seats, I suggest you take one out and you do not have to file.

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What are the characteristics of the Facility Association market? Within the private passenger automobile class of business--and, really, that is the main bulk of the business this committee is probably interested in--applicants are directed to the Facility Association mainly because of lack of driving experience--that is, 16- and 17-year olds--poor accident records, extensive conviction records relating to motor vehicle operations or a combination of any or all of these three principal characteristics.

In 1986, which is the last full year for which we have statistics, we wrote 5.7 per cent of all the young drivers in Ontario; 5.7 per cent were sent

to the Facility Association, and most of those were not clean risks. Most of them had accident and conviction records. Speeding is high on the list and the other one is impaired driving; so even the young have their problems.

The bringing into effect of the so-called spills bill in the province has had the effect of directing some hazardous goods carriers to the Facility Association, as the legal implications of loss settlement under the bill pose an unknown to underwriters. As more experience is developed, this market may undergo further change.

We have two major claims under the spills bill, both of them well in excess of \$1 million, but the applicant only bought a \$1-million limit. We are following with interest how the spills bill operates because, as far as I know, these are the first two big major claims for an automobile under this bill and we want to find out how the law is going to operate here; what is it going to pay for?

We say, in the case of the James Snow Parkway, the pollutants did not destroy the bridge, the heat did and heat is not a pollutant. I do not think the minister is going to buy that.

Generally, the same driver characteristics that direct applicants to the Facility Association have a significant effect on the severity of claims.

I have to say here that from what I see--and I look at all our claims over \$100,000 and they are numerous; we will look at 50 or 60 of these a month--the thing that I see as an absolute destroyer on the highway is high speed. We have so many claims where someone is passing on Highway 7 or another limited access road and we have a head-on collision with four people killed. This high speed seems to be attributable in no small respect to young drivers, and it is devastating; they either kill themselves or the occupants of the other car. It is a really unfortunate thing and, of course, it produces very high claims for us.

The following is an illustration of the loss cost per policy, comparing Facility Association with the industry. Facility Association's loss cost per policy is in the range of three times the average industry loss cost per policy. I am talking only about private passenger automobiles, not trucks and things. Our rates in Ontario are approximately two times the industry average, and this accounts for the huge losses we have experienced in the province.

I am talking here only about Ontario and only about third-party liability. Does that give anybody any problem? That is what the driver does to somebody else, bodily injury or property damage, and I am talking about private passenger cars.

If you look at that chart there, in 1982, our average loss cost was \$591.87. In the total industry, it was \$182.49, and that includes us. In 1983, it was so on, and you see down to 1986 it has gone up to \$914.32 while the industry has gone to \$292. Actually, a quick check on this will indicate that the Facility has gone up a little over 50 per cent and the industry has gone up around 70 per cent, so they are doing a little poorer than we are, but we are not in the competitive market and our rates were closer to the truth, I think.

Mr. Swart: May I ask one question?

Mr. McKay: Surely.

Mr. Swart: The average loss costs here for the total industry or yourself are without applying the interest on investments. Is that right?

Mr. McKay: No. The loss cost is only on the loss. It has nothing to do with premium. The loss cost is like, say, if you have \$1 million of losses for 10 cars and you divide 10 cars into that, or 1,000 cars into that, it works out to \$1,000 per car. Our rates are not figured on the premiums; our rates are figured only on what we need to pay the losses. The losses do not take into account investment income, but the premiums do.

If you want to go into that, I brought our 1987 prepared filing for Ontario, which we did not file. In that particular filing, we were allowing at 19.4 per cent for interest; that is, we calculated the rate, then we did an offset of 19.4 per cent and reduced the rate by that amount because we were only getting, at that point, seven per cent. But we hold that money over a period of time. If you have a claim today, it is not going to be settled for possibly five years, if there is serious bodily injury. We pay--do you know the schedule?--about 28 per cent of our claims the first year--

Mr. Manji: Yes.

Mr. McKay: --and 34 per cent the second year. From there, it goes down to 17 per cent, and goes down rather quickly, but some of them are still outstanding at 10 years.

Mr. Swart: I am referring primarily to the total industry and the average loss cost there. Does that include their interest on the investments?

Mr. McKay: No. Interest is on premiums, not on losses. You take the losses and convert them to premiums and then you allow the interest.

Mr. Swart: But that does not include the interest on investment on their--

Mr. McKay: No. This is what we are paying out. We only pay interest on the money we get in. We do not get any interest on what we pay out.

We are guaranteed that this is what it is going to cost us every time we issue a policy for just that particular part of the policy. You can see that the Facility Association seems to attract hazardous business. That really is what the point of this was, not what a poor time we have, but what kind of business we get.

Mr. Cureatz: That is why it was set up, for the high-risk.

Mr. McKay: What percentage of business is directed to the Facility Association? I guess there are more myths about this than about anything else, but the total industry statistics for 1986--we have not got them for 1987 yet--indicate that in Ontario, 1.7 per cent of the private passenger and 3.5 of the commercial automobile business is directed to the Facility Association.

Unfortunately, there are other companies operating in high-risk modes and I think, without having any proof of it, that sometimes the agents tell these people, "You are in the Facility Association." But they are not in the Facility Association. Only if it says "Facility Association" on the application, are you in the Facility Association. So only 1.7 per cent of the number, not the premiums, but of the number of automobiles come to the Facility Association.

There is a kind of myth that all kinds of people come to us. They really do not. Of the 4 million-odd insured cars in Ontario, 1.7 per cent is a lot of cars, but it is not overwhelming.

Jim, have you got the distribution of what the other stuff is?

Mr. Chairman: Mr. McKay, I do not want to interrupt you--

Mr. McKay: Do you want to hustle me along?

Mr. Chairman: You have a library and that has been very helpful to all of us, but you have certain time constraints and the members are going to want to ask questions, so I am going to have to hold you to the brief, if you do not mind.

Mr. McKay: My strategy was to talk until there was no time left.

Mr. Chairman: Unfortunately, I do not think that would ever happen.

Mr. Runciman: You must have worked for the government.

Mr. McKay: That is what is in the Facility Association. What percentage should be directed to the Facility? I think this is crucial to the bill we are talking about now. It is an interesting point that relates directly to the adequacy of rates in any class of business or in any territory.

If, because of regulation or competition, the rates of premium are less than adequate, underwriters must, for survival, become very selective. At this point, submissions to the Facility Association rise. If the rate of premium and conditions governing experience are satisfactory, then submissions to the Facility Association go down, because underwriters may operate with broader rules of acceptance.

In the United States, where every state has a similar shared market mechanism, the market share of the various Facility-type associations has varied from 7.8 per cent of the market in the late 1970s to the current 5.9 per cent, considerably higher in all respects than the Canadian share.

Here, again, the conduct of the market, its pricing, the legislation under which it operates and the total environment are major contributing factors. California, a state with a larger population than that of the whole of Canada, accounts for 3.3 per cent of the total US Facility market, while New Jersey, with a population similar to that of Ontario, accounts for 30.3 per cent.

In some states such as New Jersey and Massachusetts, where there is a completely unsatisfactory automobile insurance arrangement, more than 50 per cent of the insured vehicles are insured through the residual market mechanism, a Facility-type operation.

Such measures as the single rating territory rule in New Brunswick have made it the province with the highest percentage of Facility Association business, approximately three per cent. This is 170 per cent of the share of business placed in the Facility Association in Ontario.

On the other hand, such measures as premium rollbacks in Ontario, particularly in certain classes, will boost the percentage of business directed to the Facility Association. While regulators must serve as directed

without option, the only course open to private insurers who do not wish to follow is to opt out of certain classes or territories that are financially hazardous and let the business go to the shared market where they will not be exposed to other than a proportional share of the potential loss. They will still have their share but it will be proportionate. It will not be a sort of a Russian roulette thing.

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Is there a changing role for the Facility Association? The role will not change but the rules governing the conduct of business will create either an ebb or flow in the direction of business to the Facility Association. We are not masters of our own destiny. We merely respond to the marketplace.

It would seem apparent that the conduct of the automobile insurance board with respect to part II, section 20, rate and dividend review, will decide the distribution of automobile insurance policy holders between the Facility Association and the voluntary market.

A similar requirement exists in Newfoundland and New Brunswick, where the public utility boards of those provinces establish a range of rates that are referred to as benchmark rates. While New Brunswick has the largest percentage of association share of market, Newfoundland operating with somewhat similar legislation, has the lowest share. It would appear therefore that in setting a rate or range of rates, it must be more than just an opinion of the board that they are just, reasonable and not excessive, or inadequate. The board should be able to demonstrate this evidence. It is noted that there is a provision for an industry-wide hearing under subsection 20(5).

It should also be noted that in those provinces where benchmark rates are established by the boards of public utilities, Facility Association rates are considered outside of the benchmark. Because of the special risk attached to Facility Association business, it is anticipated that the association will not be required to charge the rates set under section 20 or the rates within the range of rates, set under that section, but will be required to apply to the board for approval of the rate it intends to charge under subsection 23(1) and the board can either approve, disapprove or adjust it.

The Facility Association will operate under this bill when it becomes law. It is not the position of the association to comment on the technical aspects of the bill, other than to say operating under controlled rating legislation in other jurisdictions, the association has always operated in a co-operative manner and has maintained good business relationships with the various authorities.

The bill now under review for Ontario could establish an adversarial role between the insurance industry and the automobile insurance board, which we sincerely trust will not be the case because such an environment would be to the detriment of the consumer in the final analysis.

That is the end of my brief.

Mr. Chairman: Thank you very much. We will now enter into the questions from the members. I have Ms. Poole first.

Ms. Poole: Thank you. First of all, I would like to give a special welcome to Mr. McKay since he is a constituent of mine in Eglinton. It does not mean I am going to ask easier questions.

First, a point of clarification. It is my understanding that every insurance company in Ontario is required by law to participate with the Facility Association. Is that correct?

Mr. McKay: Yes, that is the requirement of licensing. If you do not join the Facility Association then you cannot maintain a licence to underwrite automobile insurance in the province. Every time a licence is issued, or proposed to be issued to an insurer in Ontario, the department of insurance sends us a letter telling us that this company is proposing to enter automobile insurance in Ontario and then we corral them into the association.

Ms. Poole: Would there be a situation in which you would refuse to insure a driver?

Mr. McKay: No, our agreement is that anyone who is licensed or an owner of an automobile that has a licensed driver, will get insurance. It is interesting that at one time the province used to cancel licences and only reinstate them if we would file a certificate of financial responsibility, which was a terrible thing. It then meant the insurance industry decided who would get licences and who would not. We either would file or we would not file. We said, "This is not really where licensing should rest. It should rest with the government. You are the guys who put them on the road."

The law was changed then and we said to them, "If you license him, we will insure him." So whether somebody gets insurance or not, really sits in the hands of the licensing authorities who say, "You have a licence or you do not have a licence."

Ms. Poole: Thank you. We have heard from a couple of witnesses about the state of Massachusetts where 60 per cent of the drivers are in Facility. These witnesses have implied that it is because Massachusetts has a rate setting board. I would assume from your support of the rate setting board, that you disagree with this conclusion.

Mr. McKay: No, I do not disagree with it, but I think probably we are going to operate in a much better environment than Massachusetts does. I guess my last paragraph addressed that. We hope this is going to be a co-operative endeavour. There will be liaison and a chance for the industry to be heard and adequate rates published.

Ms. Poole: Thank you. I have one last question. Several of the witnesses who have appeared before us have also mentioned the fact that they think there should be a forgiveness factor in the rate classification system. Do you agree with this analysis?

Mr. McKay: I could not agree with anything more. That is the thing I agree with most of all this afternoon. I think there should be forgiveness because it is one of the areas that was a real problem before the insurance industry introduced forgiveness. If someone had a five-year accident-free class and had one fairly minor accident in a parking lot, say, \$300 or \$400, then he would suddenly go to the highest rate in the book. That caused a lot of turmoil and unrest in the consumer ranks, so we allow forgiveness. We allow forgiveness of what, the first accident?

Mr. MacPherson: The first accident.

Mr. McKay: Because you have the misfortune to have a first accident--none of us really plans to have accidents--you do not suddenly get hit with a big rate. You have one kick at the cat.

Mr. Chairman: Is that where the expression, "To err is human, to forgive divine" came from?

Mr. McKay: Thank you.

Ms. Poole: It depends. If you have an accident and are forgiven, you may feel that way.

Mr. Swart: To forgive is required. I have a number of questions I would like to ask relative to your report.

Mr. Chairman: I thought you might.

Mr. Swart: Before I do that, you will know that one of the alternatives that has been considered is that of public auto insurance. We had some evidence here this afternoon from Saskatchewan that it does not have or need any Facility insurance provided under the one system.

I want to ask you in particular, because during this debate that has taken place during the last two years on public auto insurance you took it upon yourself to write a letter, which I am sure you will recall, to Brian Crow, who is president of the Ontario Motor Coach Association. The circumstances surrounding this were that there was a report in the newspaper that he favoured the public system of British Columbia. I want to read to you from that letter and then ask you to correct what I think was a colossal misinformation to Mr. Crow.

This is your letter dated August 5--

Mr. McKay: You do not really need to read it, unless you want it for the record, because I am familiar with it. You mentioned it in about every speech you made in the last election. I am very familiar with it.

Mr. Swart: Is it not true that I was correct? The figures of losses you gave were not losses of the corporation. The total you gave for five years was \$512 million. You did not include the interest on investment, although your letter here says--and that is why it needs to be read, because you make it very clear--and these are your words, "I am not sure what the people told you, that the system does not lose money, but starting in 1985 the following figures will indicate the loss suffered by the Insurance Corp. of British Columbia auto plan." Then for five years you give figures in losses ranging from \$84 million to \$108 million.

Then you further state in your letter, "I have no idea who your source of information was in BC. However, you may quote the figures that I have mentioned above to them, as they are accurate. They are provided by the provincial government to the Canadian Underwriters' statistical issue."

Is it not true that in those five years, after the interest on investments was included in British Columbia, that not one year did they lose any money and they had a total net profit in those five years, 1981 to 1985, of \$92 million?

Mr. McKay: I cannot tell you whether that is true or not. I am reminded, however, of the Manitoba figures, which you did not quote, where there has been a discrepancy variously reported as between \$36 million and \$56 million. As you will recall, the minister who wrote that particular letter to you has now been replaced.

Mr. Swart: That was not on auto insurance, as you well know. But I want to ask you, your figures in this letter--was that statement correct?

Mr. McKay: Yes, it was. Those were underwriting losses.

Mr. Swart: You did not say underwriting losses.

Mr. McKay: OK, they were.

Mr. Swart: The statement is not correct then when you say, "I am not sure what the people told you....the loss suffered by the Insurance Corp. of British Columbia auto plan..." and you gave the figures totalling \$512 million. That was wrong. You talked earlier here, Mr. McKay, about using terminology so you do not confuse the public. Do you not think this would have confused Mr. Crow?

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Mr. McKay: I beg your pardon?

Mr. Swart: That statement is incorrect. Do you not think that would confuse--

Mr. McKay: No. It depends on how you want to look at it. As you will recall, those figures actually are losses. You will recall that there was something like a 24 per cent rate increase this year to try to make up for that. You cannot live entirely on investment income.

Mr. Swart: Are you saying that during those years they lost that amount of money?

Mr. McKay: They lost that much in underwritng.

Mr. Swart: In underwriting. They did not lose that amount of money?

Mr. McKay: I am not party to their investment income, how they get it, where they get it from or even how they account for it.

Mr. Swart: Do you not realize there are annual reports put out by the ICBC?

Mr. McKay: Yes. Get me one next time.

Mr. Swart: I sure will. You certainly need it.

Mr. Chairman: Just a second. I am not sure what this has to do with Bill 2.

Mr. Swart: It has lots to do with credibility, I want to tell you.

Mr. Chairman: Mr. Swart, would you hold on?

Mr. Swart: When the president of the Facility Association--

Mr. Chairman: Would you please hold on for a second? I think, in fairness, you are entitled to great latitude, as is any member of this committee, to ask questions, as is the witness to answer, but I think we get to a point where you can only ask it so many times without it being perhaps a

bit harassing to the witness. These people come to us not under subpoena, not by any type of order. They come voluntarily, and I think we should treat them accordingly; so I am sure you will do that.

Mr. Swart: Mr. Chairman, I make no apologies. This was a statement which was made during a very crucial debate, saying there was a \$512-million loss in five years in ICBC, and a letter written to a very important person, when there was no loss, in fact, in any of those years and there was a profit of \$92 million. This was from a person holding a very responsible position in the insurance industry in Ontario who took it upon himself, and I want to say that is a pretty serious offence.

Mr. Chairman: I am not looking for any apology, Mr. Swart, but I think in asking a question of the witnesses, if you ask it and you get an answer, you are not going to get any better answer by asking it another way.

Mr. Swart: The questions I have, Mr. Chairman, I think are very relevant and I find no objection, but I cannot let that sort of thing go by.

In the provision of the Facility insurance, you do not provide to all of the applicants the full liability insurance level they want. Is that correct? In other words, if they are a bad risk, you provide the compulsory--

Mr. McKay: No, we provide whatever is on the application. If they ask for \$1 million, they get it, if they ask for \$2 million, they get it and if they ask for \$5 million, they get it. Private passengers we cut off at \$1 million; commercial vehicles we go up to \$5 million.

Mr. Swart: I have had numerous people come to me who had gone through their insurance broker and who had said that because of their record the maximum they could get through Facility was \$200,000 or the limit. Is that incorrect or has that been done by--

Mr. McKay: That is absolutely incorrect, and I suggest you refer back to my comments earlier where I said it is often said that people are being referred to the Facility when, in fact, they are not.

Mr. Swart: That brings up the next question I have then. Have any of the insurance companies provided what they have called a Facility rate of their own?

Mr. McKay: Yes, several.

Mr. Swart: In other words, they have not gone through Facility at all. They have provided their own rate, what they call a Facility rate, to keep those revenues within their own companies?

Mr. McKay: That is correct.

Mr. Swart: I suppose that would likely be done--you can comment or not on this--by insurance companies where they did not consider it was a very great risk but they were able to charge a very substantial premium and so, instead of referring it to your Facility, they established a Facility rate of their own?

Mr. McKay: Actually, they are specialty companies. I believe you had one before you, the Progressive Casualty.

Mr. Swart: Yes.

Mr. McKay: That is the sort of business they operate. They tend to look for risks that are not as bad as we generally get but somewhere in the middle of the market.

Mr. Swart: So those companies are the ones generally that provide the limits, where it is a \$200,000 limit and somebody says, "I am getting a Facility rate." It is not a true Facility rate, but they call it a Facility rate--

Mr. McKay: That is correct.

Mr. Swart: --and they put the limits on that to protect themselves.

Mr. McKay: We do not buy reinsurance. All the premiums are kept within the Facility Association.

Mr. Swart: You did not provide in here any rate schedule or comparative rates. Do you have a rate schedule? Could you provide it for us?

Mr. McKay: We have a rate manual.

Mr. Swart: A rate manual?

Mr. McKay: It is a huge volume. We can provide one to the chairman if you like. We would have to send it to you, though. This one is--

Interjection: It is just the contents.

Mr. McKay: We did not bring the covers, but that is the contents. It is a rather big book.

Mr. Swart: Could we have one of those for our committee?

Mr. McKay: Certainly. There are copies on file with the Department of Insurance here and they are accessible to any member of the public at any time.

Mr. Swart: The Facility, all insurance rates and so on in terms of--

Mr. McKay: No, just our rates.

Mr. Swart: Yes, OK.

Mr. Runciman: I am wondering about the losses that you have indicated on page 2, close to \$200 million since commencing operations. Is it part of your mandate to lose money? It seems strange to me when we are talking about this department.

Mr. McKay: Yes. I can tell you that in a meeting held on January 7 in the Westin Hotel, as it was then, I think, at which the superintendent and Bradford Nixon, the parliamentary assistant, were in attendance, the companies made the statement and wrote it and agreed that they would accept up to one per cent of the total underwriting loss in the Facility Association. That would allow us to operate at a loss, because we were having difficulties trying to operate at a profit up to that point, or trying even to break even. They said, "We will accept a loss of up to one per cent on your underwriting ratio." So they agreed that we would operate at a loss.

Mr. Runciman: You talked about having, I think it was in late 1986, a 28 per cent increase and 40 per cent on the taxi business.

Mr. McKay: No, 28 per cent on private passengers, that is correct, and 40 per cent on taxis.

Mr. Runciman: How did you arrive at those figures?

Mr. McKay: It is quite a complicated program. We take five years of statistics and run them through a computer program that is designed to make rates. We establish the trend, which you can see. The sort of thing you get from the trend is this sort of thing: how much is it up, and to that trend and five years' statistics you can apply what is known as a least squares fit and come out with where you should be two and a half years from now, which is probably when you are going to be settling the claims. That is how you get at the rate.

Now, in the case of the taxis--Jim will have to help me on this--we put a cap of 40 per cent on it because we needed something, I believe, in excess of 100 per cent.

Interjection: Yes, quite high.

Mr. McKay: Interestingly enough, and for the record, we also file rate decreases when they are warranted. We filed a rate decrease for all commercial automobiles in Alberta for 1988. We filed a rate decrease for all private passenger vehicles in the province of Newfoundland for 1988 because we had made more than we should have made.

Mr. Runciman: I would appreciate it if you would confine yourself to the Ontario experience.

Mr. McKay: We do file increases, but we do file decreases.

Mr. Runciman: When was the previous increase filed? How many years?

Mr. McKay: It was January 1985 and May 1986.

Interjection: January 1985, I guess, is the latest one. The May--

Mr. McKay: We did not get that one, no.

Mr. Runciman: You filed one in 1985 and you did not get it?

Mr. McKay: No, we got it in 1985. We filed one in 1986 and we got it, and then we have not have a rate increase since. But as you see, it is not really needed.

Mr. Runciman: I want to get the process clear in my mind here. When you are filing an increase, you come to a conclusion as to what you think is necessary and then you file it with the superintendent.

Mr. McKay: We file all the documentation. Have you got a filing there?

Mr. MacPherson: It is similar.

Mr. McKay: It is similar to this, and we file all this documentation, which is a lot of computer printouts and such.

Mr. Runciman: I appreciate that.

Mr. McKay: He takes it to his actuarial department or outside consulting actuary, as the case may be, and they either agree or disagree with it. Then we come to the point where he allows it, he disallows it or he adjusts it.

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Mr. Runciman: OK. So in a sense, you have been operating under a rate-setting environment since your inception.

Mr. McKay: Yes, absolutely.

Mr. Runciman: OK.

Mr. J. B. Nixon: Perhaps just to help--

Mr. Runciman: I do not need your help, thank you, Mr. Nixon. I do not want your help. I know where it is coming from.

Mr. J. B. Nixon: No, no, you do not.

Mr. Chairman: You can add it afterwards.

Mr. Runciman: I prefer you add it afterwards.

Mr. J. B. Nixon: That is fine.

Mr. Runciman: At least I suspect where most of his assistance is coming from.

Mr. J. B. Nixon: Do not jump to conclusions.

Mr. Runciman: I am basing it on the record up to this point.

I gather perhaps you have some concerns about the unisex approach as well, because you mentioned your experience, your exposure in terms of young drivers and the number of serious accidents young drivers are involved in. Obviously, you have some concerns about the approach the government is taking.

Mr. McKay: We have concerns, but actually, the way we operate is somewhat different from the industry. The rates are not vastly different for young drivers than mature drivers. Do you want an example out there?

Mr. Runciman: No, that is immaterial really. I am talking about the concept.

Mr. McKay: We have some concerns that, if the overall average is not adequate, then too much might be sent to us. That is really our main concern: make sure you get to a level that is going to take care of everybody.

I think I heard the brokers saying you have to average all these people. If about seven per cent of the drivers are young drivers and you are applying them against 93 per cent of the other drivers, even though they have higher claims it is not going to have a major effect on that.

Mr. Runciman: You talked about your rates and the other operators in the high-risk business. How do your rates compare with those companies?

Mr. McKay: It is difficult to say. We occasionally get complaints that our rates are lower than the voluntary market, and of course we get a lot of complaints that they are outlandishly high. I guess it depends whose ox is getting gored at the time.

Mr. Runciman: Mr. Swart was implying, I gather, that some brokers are simply not making them aware of the Facility and going with some of the other high-risk operations. That leads you to believe that their rates are somewhat higher than yours.

Mr. McKay: No, they cannot be higher than ours under the bill that is under consideration now. As of April 23, nobody can be higher than we are. Is that not correct? Is this not in the bill that you are examining now?

Mr. Runciman: I am going by the implication of Mr. Swart. I inferred, anyway, that he was suggesting the consumers were being ripped off.

Mr. McKay: No. What he was talking about really was limits as much as rates. That is, he would go to another market other than Facility Association and the broker would say, "You can only get \$200,000." He was talking about limits, but for the same price you could get \$1 million with the Facility Association. I think what he was referring to was, "Why do you restrict your limits?" But we do not restrict our limits.

Mr. J. B. Nixon: Whether you want it or not, Mr. Runciman, for the committee members, all I was going to do was outline very quickly the process that occurs when the Facility in its wisdom deems that it needs a rate increase. It applies to the superintendent with a brief for it. The superintendent has 30 days to respond. The superintendent can say no or he can hold a hearing. If he decides that a hearing should be held--and obviously, there is a lot of discussion that takes place informally--then he convenes a hearing and he, I believe, chairs that hearing. There are arguments heard from both sides as to what the appropriate increase should be.

That is all I wanted to say. That is the process.

Mr. Chairman: Recognizing the agreement we had at the outset that there would be equal time for each of the parties, I do have two further questioners, Mr. Sola and Mr. McGuinty, but we have already had Ms. Poole, so perhaps you would consider that in terms of the question you ask, timing-wise.

Mr. McGuinty: Mr. McKay, on page 2 you list the underwriting losses from 1982 to 1987. Is that dramatic decrease between 1986 and 1987 due mainly to a premium increase?

Mr. McKay: It is due to premium increase solely.

Mr. McGuinty: Also, on page 5, you indicate that 1.7 per cent of the private passenger business is directed to your association. My first response to that is one of surprise. I do not know why, but I would have assumed it was considerably more. Then on page 4 you indicate the criteria that would have people directed to the Facility Association, such as lack of driving experience. Could that alone, as a criterion, be a cause for somebody being directed to your association?

Mr. McKay: It could be. For instance, with a 16-year-old driver who has never driven before, who has never been associated with an insurance company on a family automobile insurance policy or anything of that nature, it

might be his very first time on the road and the company might turn him down. As I think I mentioned, close to 95 per cent of young drivers are written voluntarily by the market. Generally they follow through: The young driver has driven on the father's policy as an additional driver, then he gets his own car and the company just takes him on and away you go. It is the odd business we get.

Mr. McGuinty: To get to the others, then, Mr. McKay: I am surprised about this low percentage directed to the association. How bad must the accident record be or how many convictions? Is that a clearly defined level?

Mr. McKay: No. It is an underwriter's judgement. I think part of the problem in the industry is that different underwriters use different judgements. You might go to company A, which has a fairly broad acceptance but maybe charges a little higher premium, and be able to get the insurance for that person; but if you go to company B, which is trying to be very competitive in the rate field and really cannot take a chance, it sends him to us. It all depends, I think, on where the broker directs the business, to some extent.

Mr. McGuinty: Would you anticipate that one of the effects of Bill 2 would be to standardize this?

Mr. McKay: In Bill 2 we are going to try and standardize the "event," which will uprate people. It is quite possible that underwriters will say, "This person has had X number of events and perhaps he should go to the Facility Association now." If the rates are adequate and everything flows the way it should, there should not be a great deal of difference. If the rates are inadequate and people are all vying for a position like a bunch of racehorses, you are going to have all kinds of problems.

Mr. McGuinty: Thank you very much.

Mr. Sola: On page 5 of your report you state that "the association's loss cost per policy is in the range of three times the average industry loss cost." That is throughout Canada, I take it.

Mr. McKay: No. This is only Ontario and this is only third-party liability; that is, bodily injury and property damage. This is restricted to Ontario. We suspect that if we did the whole of Canada, it would not vary by a great deal, because Ontario accounts for about 72 per cent of Canada. It has a major weighting on what happens.

Mr. Sola: In the next sentence you state that in Ontario the losses are approximately two times the industry average.

Mr. McKay: No, the rates are two times. Our rates are approximately two times. That is a kind of weighted industry average.

Mr. Sola: Do you ever get any recommendations for handicapped people?

Mr. McKay: Yes. We put out a special bulletin we are going to reissue after a meeting tomorrow--I am trying to find it. It is called Hardship Cases and Injustices. We give the underwriter at the servicing carrier the right to vary our rates in hardship cases or in cases where it appears our rates are unjustifiable. Let us say a severely handicapped person, who had had a good driving record and had had no problems, was directed to us. The underwriter at that point could make a judgement on what rate, that is, he

could bring the rate down from the rate which we would otherwise require him to charge. He has that judgement. The only thing we ask is that when he does that, he report it to us, so we can establish a trend of where those rate allowances are going.

Mr. Sola: Would he be referred to you because of some accident or just because of a re-evaluation of his handicap situation?

Mr. McKay: It could be a re-evaluation. I do not really know why somebody would refer them to us. We are at the other end and it would simply come to our servicing carrier.

We had a special case in December. The man, I think, was 83. He had a good driving record, but he had been referred to the Facility Association because of his age and they wanted a special rate for him. I said, "How much does he drive?" He drove very little. I said, "Where does he drive?" They said, "He delivers Meals on Wheels." We gave him a very special rate because, after all, the only driving he was doing was for a charitable purpose and it did not seem right that he should have to pay a full Facility Association rate.

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Mr. Sola: It is interesting that you do have the special or handicapped referred to you, yet from the industry itself we have been told it does not have special rates for the handicapped as such.

Mr. McKay: No, there are no special rates, but we will say that we will not require the full Facility Association rate, which would be two times the market level. The underwriter may make a judgement and come in lower than that, probably at the weighted market average.

Mr. Sola: On the same page, referring to the same statistics Mr. McGuinty referred to, the 1.7 per cent of private passenger business that you get, would that be mainly the families of taxi drivers?

Mr. McKay: I beg your pardon.

Mr. Sola: The families of taxi drivers because in the taxi drivers--

Mr. McKay: No, they have nothing to do with taxi drivers. This is private passenger business.

Mr. Sola: Right, but taxi drivers have told us at this committee that if they are referred to the Facility Association, the members of their families pay at the same rate as they do.

Mr. McKay: I really do not know of any logical connection to what you are saying.

Mr. Sola: If we refer back to--

Mr. McKay: For instance, if a family has four taxis--

Mr. Chairman: I think this may be the question Mr. Sola is getting at, or maybe it is not: It is the situation where one driver--i.e., in this case the taxicab driver--perhaps has a bad record and winds up in the Facility. It is the impact it has on the other drivers within the family.

Mr. McKay: If he has a personal car at home, the same record will apply. Yes, you are quite right. He probably will get sent to the Facility Association because the personal car he drives will be driven by the same guy who is driving the other car.

Mr. Sola: That is why I asked if the 1.7 per cent included his family members.

Mr. McKay: No. We only do vehicle counts, not how many drivers there are.

Mr. Sola: Oh, OK.

Mr. McKay: Those are vehicle counts.

Mr. Chairman: Thank you very much for your appearance before us. We will take what you have said into consideration, certainly in terms of further dealings, as we will all the briefs.

SUNRISE CO-OPERATIVE INC.

Mr. Chairman: The final group today is Sunrise Co-operative Inc., Larry Dorkin, president. Mr. Dorkin, you were here earlier, so for purposes of Hansard, if you are going to present the brief, which we have before us as exhibit 24, perhaps you would introduce the other members, then go through the brief and try to allow sufficient time for questions by members of the committee.

Mr. Dorkin: Thank you. With me today I have John White, the vice-president, underwriting, Markel Insurance Co. of Canada. Next to him is Philomena Comerford, vice-president, Wray Baird MacGregor Insurance Brokers Ltd., and Mitch Grossman, who is one of the directors of our co-operative.

Before I begin with the brief, I would just like to say that I have been down to the hearings two or three days, and I have listened to insurance companies, the taxi brokerages association and also the drivers, all taking each other apart. What we hope to do today is to show you that by working together--and in fact, with the people with me, I believe we do--all three things are present that are necessary to make any program work, those being the buyer, the seller and the intermediary, or the broker.

I will go on with the brief now. I will just give a bit of history.

Sunrise Co-operative Inc. is a taxi co-operative formed in December 1982 to serve the interests of its members, who are owners, lessees and drivers of taxis in the Metropolitan Toronto area. Membership in Sunrise is open to anyone in any way connected with the taxi industry that is willing to participate in our risk management program. At the present time, Sunrise has approximately 600 members representing 20 per cent of the taxis in Metropolitan Toronto.

One of the main objectives of this co-operative has been, and always will be, the communication of the concerns of its members and the promotion of a mutual understanding between these members and the regulatory bodies with which it deals. Sunrise is actively involved in attempting to monitor claims experience, promote loss prevention and increase the accountability of taxi owners and operators.

We recognize that there have been some serious problems for insurers who have taken on the risk of insuring taxis, and historically the claims experience of taxis has been poor. We also recognize the fact that insurance companies have a right, even an obligation, to take steps to make certain that insuring taxis is a viable business proposition.

At the end of the first two-year period of Sunrise's existence, the loss ratio was 174 per cent. It was at this time our co-operative realized that something had to be done to improve the situation. The answer: risk management.

Obviously, while we recognize and accept the validity of the insurers' concerns and objectives, our need and objective is always to be able to secure adequate and affordable insurance for our members.

With the advent of Sunrise's risk management program came the difficult task of going to the membership and convincing them that the money we planned to spend on computers and other necessary expenses was justified, if they hoped to continue paying affordable insurance premiums.

Risk management activities of Sunrise include: structuring of self-assumption programs for each of our members appropriate to their financial capacity; establishing driver criteria, including intelligent analysis of violations; monitoring claims activity and patterns; hiring of a full-time loss prevention officer for the exclusive benefit of our members; responsive claims management; evaluation and monitoring of vehicle maintenance and inspection procedures; implementation of safe driving awards and incentives; regular safety meetings for fleet operators; driver training and testing; defensive driving courses that are presently being implemented; profiling of award-winning drivers in the association newsletter and in the national industry publication, Taxi News; maintenance of a comprehensive computerized database to assist in the management of the co-operative's affairs and to enable an ongoing evaluation; establishing and enforcing rules of conduct as set out in the co-operative's bylaws; and post-loss evaluation of claims, including driver interview.

Markel has played an extremely active role in working closely together with Sunrise in all aspects of our risk management program. Sunrise is fully computerized. All accident reports, abstracts and policy information are in our computer system. We are still making improvements to the program and access to information. There is tremendous potential for monitoring, control and generating data for analysis.

The risk management program is now over two years old. Since the implementation of this program, the frequency of accidents involving members of our co-operative has dropped 45 per cent. The loss ratio as of November 30, 1987, was less than 80 per cent, as compared with 174 per cent loss ratio two years prior.

This system is working for us. As we continue to police our drivers, we expect our loss ratio to continue to improve and our rates to decrease even more than they are now because we always want to be in a position to continue to appeal to the competitive market. We believe it is in the best interest of the taxi industry to work within the existing free enterprise system of rating taxis and to devote energies toward increasing accountability and responsibility of the drivers and owners.

We feel that a workable insurance system must provide an incentive to drive properly. Under the present system, the incentive is affordable premiums

correlated to claims record. If a rate-setting board--which is Bill 2--system of rating insurance is instituted, we fear it will allow high-risk drivers back on the road by virtue of a reduction in their premiums. This would be at the expense of good drivers who have to share the risk with the bad drivers.

The whole thrust of the energies of Sunrise Co-operative is to get the drivers with poor at-fault claims records off the road or develop them into safer drivers so that we can continue to improve our loss ratios, secure affordable insurance premiums for the good drivers and protect the public against damages caused by irresponsible drivers.

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With the recent public awareness campaign to prevent drinking and driving, the public has come to rely upon the taxi industry to provide safe carriage of passengers. The drivers to whom the public entrusts its persons should be responsible individuals. We must remember that driving is a privilege, not a right. The insurance industry has benefited as a whole by reduced claims payouts as a result of the taxicab industry's efforts to keep impaired drivers off the road.

To suggest that a taxi driver cannot get insurance is not true. The system as it is currently structured provides insurance through the Facility Association. While certain drivers in the industry are prepared to adhere to intelligent risk management, there will inevitably be those who choose to totally disregard reasonable safety standards. No matter how poor these drivers are, availability of insurance is guaranteed through the Facility Association, an inherent part of the existing system.

It is worth noting that the Facility rating is based upon the plate history and not upon the experience of the driver. Drivers cause losses--not plates, not vehicles. The probability of losses and the extent of loss tracks with the driver. This system of rating has caused havoc in the taxi industry and has resulted in an inequitable distribution of premium charge among its large population of policyholders.

The good drivers are frequently penalized due to this unfair method of rating; the poor drivers are not identified and, as such, are not paying premiums that accurately reflect their experience. Consequently, there is no incentive for those members of the taxicab industry insured through the Facility to practise any form of risk management.

In early 1987, Sunrise Co-Operative, along with its insurance broker, Wray Baird MacGregor Insurance Brokers Ltd., approached Markel Insurance Co. of Canada to see if it was interested in conducting a feasibility study as to whether an affordable insurance program could be put together for our co-operative. After many months of negotiations, an insurance program was agreed upon and the first policy was written on June 8, 1987. This was the first time, to my knowledge, in more than five years that an independent insurer wrote on its own book of business a taxi policy covering a cab licensed to operate in Metropolitan Toronto. Because of the diligence and commitments made by all parties concerned, this program is a prime example of what a meeting of the minds can accomplish.

Let me give you an example of what this program has meant to one member who is a large fleet operator, who has participated and complied with our risk management guidelines. On December 1, 1987, this member was able to realize a savings of many thousands of dollars by transferring his insurance program to

Markel. This premium reduction recognizes the commitment to risk management on the part of the fleet operator, including implementation of increased deductibles, strict adherence to careful hiring procedures, regular equipment maintenance, claims management and worthwhile driver incentives. The two largest fleet operators in Metropolitan Toronto are participants in the Sunrise risk management program.

We have read the Mercer report as it applies to taxis and have found that it does not go quite far enough in classifying use categories. It is our recommendation that taxicabs be exclusively classified by themselves into three distinct categories, namely, owner-lessee operated with one named long-term driver; owner-lessee operated with two named long-term drivers; and fleet taxicabs, owner-lessee operated with three or more units operated by this person to be considered a fleet and to be judged exclusively on their own performance. It has been our experience that with the given variables that do exist within our risk management program, these classifications are sufficient.

We further recommend that the Facility Association amend its rating formulas to evaluate the driver experience rather than the plate history.

Finally, we recommend that the Ministry of Financial Institutions recommend to the the Minister of Transportation (Mr. Fulton) that a special class of driver's licence be established for taxicab drivers, with a prescribed demerit point limit and successful completion of a comprehensive defensive driving course as a prerequisite to licensing.

We believe it is an accepted fact that taxicabs are a necessary and integral part of a transportation system within any urban area and because the taxicab industry is unique in its way of operating, the manner in which insurance is placed on the taxicabs should be taken into consideration. It is therefore our recommendation that section 19 of Bill 2 be amended so that it is stated in the act that taxicabs are to be a separate classification.

As stated previously, the existing system of rating insurance premiums works for us in the taxi industry and we are prepared to work within it in order to continue to enjoy its benefits. We fear that with a rate setting board, the strides that we have made in struggling to reverse and improve the claims record of taxi drivers will be lost and we will be left with an inferior system, restricted rights and higher premiums. It is therefore our recommendation that section 20 of Bill 2 be amended so that taxicabs are exempt from rates set by the board but retain the right to appeal to the board when rates charged are not just and reasonable.

There is no one body that speaks for all brokers, all insurers or all taxi drivers and operators. By their participation in this panel, Wray Baird MacGregor Insurance Brokers, Markel Insurance Co. of Canada and Sunrise Co-operative Inc. wish to demonstrate their confidence in the ability of intelligent business people to identify and solve their own problems with minimal recourse to intervention.

We have tried to approach this problem not by putting a patch on it but by developing a long-term solution with reciprocal benefits to the buyer and the seller. Obviously, this is best served by a free market. A free market with minimal enlightened regulation serves this objective. Our success to date demonstrates a high degree of business professionalism not only within the taxi industry but also by those within the insurance industry who have made this program possible.

Just in closing, I would like to say something on behalf of our members. We are not, as the Toronto Taxicab Brokerages Association has inferred--and the Metropolitan Licensing Commission also made the same remark--I believe something to the effect of "swashbuckling entrepreneurs." That we are not.

Mr. Keyes: I would like to congratulate the people who are here today, and Mr. Dorkin in particular, because you have touched on one real means of dealing with the problem that I have queried before, that is, getting into the insurance field yourselves. You have gone through a slightly different process, co-operating with the help of the companies.

I have two questions, one perhaps that Mr. White will want to comment on, as to the comparison of rates of his company as you work with these people and those of the Facility. I will leave that to you.

Mr. Dorkin, there seems to be somewhat of an inconsistency in the way you have dealt with Bill 2 on page 8. I think I would have to have you better explain yourself. You say there that you want to be sure that the bill is amended so that taxicabs are considered as a separate classification. Then in the next paragraph you say you want to be sure that the rates set by the rate review board will not apply to taxicabs. Yet you then turn around in the next sentence and say, "But we want the right to apply to the board if we do not think the rates are just and reasonable."

That is totally inconsistent, and I wish you would attempt to clarify the position of Sunrise with regard to those two paragraphs.

Mr. Dorkin: Regarding the two paragraphs on the bill and the two recommendations regarding the bill, we feel that if there is not some form of a check, we do need a court of last resort in case the taxi situation were ever to get out of hand again as far as we are concerned. There would be a court of last resort, but only to use as a court of last resort. We believe that if you work within the existing system and if we continue to work within it ourselves, as others join us, there will be no need to appear before the board.

The reason we have made that one recommendation that rates not be set is that we are fearful there will be a low rate, a high rate and something must be charged in between or else come to the board. We feel that working within the system as it is now, we are better off.

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Mr. Keyes: Just following up on it, I think it is pretty obvious there will be a rate review board. I guess the point of your presentation, and perhaps more significant, is when you do make an appeal for the different type of categories or classifications within that. You would have to keep that in mind as you look at it because I think it will come about, but I do want to commend you for the approach you have taken. I think we have all agreed that risk management seems to be one of the best ways for the industry to improve its opportunity to get insurance.

Mr. Dorkin: We have proved it.

Mr. Keyes: Right. Perhaps we can go back, Mr. White, if you wanted to comment on the comparison rates between the insurance company as it charges your drivers through the co-op and Facility.

Mr. Dorkin: That would be something Mr. White would have to answer.

Mr. Keyes: Yes.

Mr. White: Our rates are significantly below Facility rates. They are more in line with current Insurers' Advisory Organization rates. This program started in June 1987--

Mr. Keyes: Oh, it is not old.

Mr. White: It is not very old; it has not had time to age and mature, but we are very confident it is going to perform excellently. Some time down the road, when we have sufficient data to come up with sensible statistics, we will be applying to the superintendent of insurance to amend our rates. We fully expect they will go down, particularly if the current loss trend continues.

Mr. Keyes: Does your company restrict itself primarily to high-risk drivers? We had one other set of witnesses before us last week--you may have been here--and that is all they deal with. They have found it profitable to be involved in insuring high-risk drivers.

Mr. White: No. Markel is primarily an insurer of transportation-type risk, with our core business being long-haul trucks.

Mr. Keyes: So it is mainly commercial, not private?

Mr. White: Yes, that is correct. We also insure buses, tour buses, taxicabs, daily rentals and, as I mentioned, the core of our business is truly long-haul trucks. We are quite familiar with loss prevention and loss risk management techniques. In fact, we have a rather large loss prevention department of our own which consults with our various insurers and assists them in devising risk management programs and administering them.

Mr. Keyes: The rates then will be set. You can see them separated out as to the buses, the long-haul transport and then taxis, or is it going to be that the perhaps better experience in the long-range buses, etc., will be supplementing costs for the taxi industry?

Mr. White: No, no. We maintain separate figures and statistics for each class of business we write. It is the only way we can do it intelligently.

Mr. Keyes: Right.

Mr. Chairman: I have Mr. McGuinty next on the list, but I think in fairness we will go to Mr. Swart first, then Mr. Runciman and then Mr. McGuinty.

Mr. Swart: I too want to commend you for your risk management program. I think all of us recognize that, regardless that there may be different efficiencies in systems, any system has to collect sufficient to pay out claims. The less claims there are to pay out, the lower the price is going to be. I think all of us recognize that.

I just really wanted to follow up a little bit on what Mr. Keyes said when you asked to be left out of the rate review board considerations but with the right to make application. I think I am right in saying that Bill 2 does provide for any insurance company to ask for a reduction in rates or, for that

matter, an increase in the rates outside of the classification. I would anticipate that if, through exceptional risk management, you were able to reduce your claims so substantially that you could be below the rate, as it would indicate in the short period of time here, there could be an application made to apply for a reduction in rates in your instance.

Overall, I do not think the rate review board is going to do any good at all for the general insured voting public in this province. I think an examination that was taking place in the United States would indicate that, but if we are going to have a rate review board--and all of us here can count heads when it comes to the vote in the Legislature--would you not think that if one group got out, then there would be the request for another group to get out and it would start breaking down the whole system?

Mr. Dorkin: No, I do not really, because in the beginning I believed this was nothing more than a rate review board. Then, upon reading the bill after first reading, I saw that it was going to be a rate-setting board. That makes me a little nervous because with the inherent practices of government, when things are tied up with the bureaucracy, to get approval for any variation may well take a lot longer than the policy year that runs on a premium.

Mr. White: Mr. Swart, if I may comment on that, in British Columbia for instance, long-haul truckers who operate extraprovincially from BC have the right to purchase their insurance in the private market, should they so desire, and with the approval of the appropriate authorities in BC. We wrote truck insurance quite extensively in British Columbia as recently as three years ago. As a result of great increases put in by the BC government combined with rate increases we were forced to make, we no longer were competitive. Just recently, in fact this month, I see BC has announced some drastic rate increases on truck insurance in BC and we now find ourselves in the happy position of being able to compete once more.

I think perhaps this ties in with what Larry is saying; fine, the rates are there, but they should have the opportunity to go elsewhere should they so desire.

Mr. Swart: I am not sure I see the analogy because you are saying that what the government is proposing is an overall rate control board. Incidentally, except in the wording--you always use words that are soft even if you are doing something tough--you can correct me if I am wrong, but since it was first announced, it was never intended to be a rate review board; it was intended to be a rate control board. The bill which was tabled at the end of June was a rate control board, not a rate review board. This is going to cover all of them. Any insurer can get in under this program. It is to cover all insurers and I am not sure I see the analogy to what you are saying.

Mr. White: The analogy, I suppose, is that the rates determined by the Insurance Corp. of British Columbia are optional as far as truckers go. It guarantees them. They more or less set the tone for competition in the province, but truckers have an option. They do not have to buy insurance at the rates prescribed by ICBC if they choose not to.

Mr. Swart: That is true for a lot more than truckers. It is true, as you know, in collision insurance. It is only liability that is compulsory. Some people have seen fit to stay with the ICBC. I understand your point and I have some sympathy with you. I think the rate review board in fact is going to put that kind of straitjacket in a lot of places. It will not always be beneficial and reduce rates. In some places, it is going to increase them.

Mr. Runciman: I very much appreciate your submission. I think the number of suggestions you have made hit the nails on the head. I really appreciate them. I share your concerns about the rate-setting board. I think they are very valid.

I am wondering what your relationship is with the Toronto Taxicab Brokerages Association. We had them here before us and their approach was somewhat different. They were talking about their problems in dealing with the Insurance Bureau of Canada with respect to risk management. You have taken the bull by the horns and gone ahead on your own in a commendable fashion. I am wondering why we are having the different kinds of stories. Do you have any observation to make on that?

Mr. Dorkin: I believe it is a very simple fact, for me. Maybe for yourself and other people, not understanding the way the taxi industry works, it may put you in a bit of a quandry. The TTBA, which is the Toronto Taxicab Brokerages Association, does not operate cars per se. It is a brokerage, namely, it sells a radio service, a dispatching service. They do not operate taxicabs. Some of our members, in fact all our members, are members of one or more of the brokerages represented by the brokerage association. I am not saying they agree with their brokerage because they do belong to the association.

There are also a couple of members of the brokerage association executive who, for their own reasons two years ago, when they were approached by us to come along and help us start up this risk-management program, declined. It is their loss; it is not ours.

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Mr. Runciman: Just out of curiosity, now that we have got into this area. Why would the brokerage group be involved in this kind of thing, in any event, since they are not operators, as such?

Mr. Dorkin: I believe it basically comes down to dollars and cents. The more cars they have in their brokerage, the more membership dues they get per month. I think they made reference to the fact there are 30 or 35 taxi plates sitting up on the shelf of the licensing commission. If those 30 or 35 plates were on the road, somebody would be getting membership dues for 30 or 35 more plates. I think it comes down to dollars and cents; and incidentally that was their reason for not wanting to come with us two years ago when we asked them. We said we would do it alone, and we did it.

Mr. Runciman: That is a new slant on the story. Thank you very much.

Mr. McGuinty: I think Mr. Runciman anticipated my question. He said we were assured last week that any effort at risk management would come to no avail because of the failure of the brokers to get any co-operation from the insurance people.

Mr. Dorkin: Because I sat here and listened to it, that was one of big reasons that we decided that we must make a presentation.

Mr. McGuinty: Your statement, I do not agree with all of it in the aspect that Mr. Runciman does, but I find it very refreshing. I certainly commend you for your fine initiative.

The figure of \$6,300 cost of insurance as the average has been bandied about. In fact, every time in the last 10 days that I have taken a taxi I have

talked to taxi drivers about that, and that seemed to have been confirmed. Within your group, what would be an average cost?

Mr. Dorkin: There again, it depends on the animal that you are talking about. If we are talking about the person who owns or leases a plate and he has himself and one other driver on that, we are looking at between \$4,200 and probably \$5,300 annually.

Mr. McGuinty: How do those figures compare with those in the industry that are not within the purview of your association?

Mr. Dorkin: They are very good.

Mr. McGuinty: Considerably lower.

Mr. Dorkin: Oh yes, considerably lower.

Mr. McGuinty: Thank you very much, sir.

Mr. Keyes: There is the one problem. It has been suggested that the insurance be strictly with the driver rather than the car, and I understand why they ask that. Would you also admit that still creates a great problem for anyone else because you do perhaps have--I do not know about in your association, but across the industry generally--a fair number of transient drivers? While I agree with the concept, I believe the record of the driver would be an excellent way of dealing with them. It earns them a lot of merit compared to just being the vehicle itself. It almost becomes impossible to manage.

Mr. Dorkin: I think you are missing my point.

Mr. Keyes: What's that?

Mr. Dorkin: I asked that when the insurance is rated, it be the operator's or the driver's record that is taken into account, not the plate history, which is the case with Facility Association.

For example--I know you have driven a cab because I have been here before--suppose you decide to go back to driving a cab. You have three or four years of cab-driving experience where you are claims free. You decide to lease a licence. You lease the licence. If you go to Facility, because you are not the owner of the plate--and we will say that plate had two accidents last year with another lessee--you are going to be charged in the neighbourhood of \$10,000 annually for liability insurance only on that plate.

Whereas, under the system we have in existence at Sunrise now, if you came to us with that, you would talking about the low figure that I have just quoted. It is not the driver, and it is not the driver's licence per se, it is the driver's record, a combination of his motor vehicle registration and his claims experience put together. This is how we arrive at the rates. It is not the vehicle and it is not the piece of tin.

Mr. Keyes: My point is that, quite often, you may have many drivers--more than those cited here, one or two long-term drivers--who are very short-term, in and out, and it does--

Mr. Dorkin: Those who are in and out are covered; they basically drive for the fleets. There again, we have another set of ratings, but that is up to the fleet operator, how he hires and how he operates.

We have found, over the last three to four years especially, that more and more drivers--even the fleet operators have found that the drivers they are hiring are not the transient type any more. I know many a fleet driver who is paying a mortgage on a home, bringing up two or three children. They are doing it.

Mr. Chairman: Mr. Nixon, you have a supplementary question.

Mr. J. B. Nixon: If I can try to get at the issue, what you are suggesting is that the insurance premium or policy should be written on the basis of the lessee's experience and anyone he may choose to employ, running that cab on the odd shift; which is different from writing a different policy for everyone in the business. Even if a lessee hires someone to work the night shift for him, that night shift driver's experience forms part of the lessee's--

Mr. Dorkin: That is correct.

Mr. J. B. Nixon: That is reasonably feasible, as opposed to writing--I think some people think that you are suggesting, "Write separate policies for each individual driver."

Mr. Dorkin: No. The insurance is still on the vehicle because, as I understand it, that is the way the legislation is in the province. But it is the person who is actually behind the wheel, who is actually driving the vehicle, and it can be done. Right now, of the 600-odd taxis we have in our co-operative, it is done. They are able to do it and there is no problem.

Mr. Chairman: OK. Thank you very much. We appreciate your coming forward to give us that information and we will consider it, along with all the other briefs.

Just before members leave, and before we adjourn, I have a couple of items for you. The clerk has tried to contact Dr. David Slater. He is retired, which is something I would like to do, to retire.

Mr. Swart: There will be a good chance for you in the next election.

Mr. Chairman: I knew you would have something to say, Mel.

He is thought to be away, so we are unable to reach him and it does not appear that it will be possible during the sittings of this committee.

On the Ottawa schedule, you have two additional bookings and maybe you would like to make a note on the revised schedule. On Tuesday at 8:30 p.m., we have the Ottawa insurance brokers and at 9 p.m., the Ottawa and District Labour Council. On the following day in Sudbury, we have an additional booking as well, at 2:30 p.m., if you want to make a note of that, the Sudbury insurance brokers.

In view of the change there, we will--I understand it is the wish of those who are going to Sudbury that we not stay over in Sudbury. Therefore, we had better all pray there is no snow at the airport, because if there is, we are sleeping at the airport.

I understand everybody is booked on CP flight 955, leaving at 5:20 p.m. Just a final item: transportation to the airport tomorrow will be leaving the front door at 12:30 p.m. Anyone not travelling with the group, going another way, should let the clerk know immediately.

Mr. Swart: I hope to travel with the group, but I have an appointment tomorrow morning with a doctor that may last longer than that. I may get down there late if I do not.

Mr. Kanter: Another matter with respect to the committee. There were a number of amendments provided to members of the committee. I looked at them over the weekend. Some of them were fairly straightforward; some of them I did not find so straightforward. I think there was some discussion about possibly having staff explain the amendments prior to voting on a clause-by-clause basis. I am wondering if that would be possible to arrange within our schedule.

Clerk of the Committee: That is usually done during clause-by-clause on an individual clause basis.

Mr. Chairman: I am advised by the clerk that is usually done in the course of clause-by-clause as each amendment is taken on a clause-by-clause basis.

Clerk of the Committee: It has also happened in a number of committees where I have been involved that at the outset of clause-by-clause there is a general overview by staff before we start going through the bill section by section.

Mr. Chairman: As to the impact of those amendments. That is a choice of the committee. Personally, I think that may be a better way. I usually read a book from the back to the front, or at least peek at the back, anyway.

Mr. J. B. Nixon: The ministry is always available at the convenience of the committee.

Mr. Kanter: I think it would make more sense if it was available once instead of six or eight separate times.

Mr. J. B. Nixon: They will be there through the entire clause-by-clause review, but they are happy to do it beforehand, too.

Mr. Swart: Is a continuing effort going to be made to see whether we can get Mr. Slater in case he is not away? Do we know it is not possible to get him?

Mr. Chairman: The clerk has tried repeatedly.

Clerk of the Committee: He was employed with the economic council. I checked with them, and they have no additional manner for me to reach him. I have exhausted every form of reaching him that there is.

Mr. J. B. Nixon: Informally, I know that since he retired, he likes to spend his winters out of the country, and we do not know where to reach him.

Mr. Swart: I would like some more calls to be made to see. I think it is rather unfortunate that we cannot get either Mr. Kwinter here, who is one person who said the rate review board would mean a lot higher costs, or Mr. Slater.

Mr. J. B. Nixon: No, he did not. I beg to differ.

Mr. Swart: I would beg to differ. It was Mr. Slater who recommended against a rate review board. It is regrettable we cannot have them here.

Mr. Chairman: I think we will continue to monitor it, but it seems pretty clear from what the clerk has done that we are not going to get him back short of, as you are suggesting, Mr. Swart, our seeking out where he has retired to and meeting with him.

Mr. Swart: That might be a good idea, but I am not suggesting that you make calls to Florida or whatever the case may be. I am suggesting that perhaps we could make a periodic call between now and the time we finish our work.

Mr. Chairman: All right, the clerk will do that.

We stand adjourned until whatever time we start in Ottawa.

The committee adjourned at 5:04 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ONTARIO AUTOMOBILE INSURANCE BOARD ACT

THURSDAY, JANUARY 21, 1988



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

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Kanter, Ron (St. Andrew-St. Patrick L)

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Poole, Dianne (Eglinton L)

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McGuinty, Dalton J. (Ottawa South L) for Mr. Chiarelli

Runciman, Robert W. (Leeds-Grenville PC) for Mr. Sterling

Swart, Mel (Welland-Thorold NDP) for Mr. Hampton

Clerk: Mellor, Lynn

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Financial Institutions:

Nixon, J. Bradford, Parliamentary Assistant to the Minister of Financial
Institutions (York Mills L)

From the Ontario Mutual Insurance Association:

Wolgemuth, Lorne, President

Bailey, David, Automobile Manager for Farm Mutual Reinsurance Plan

Couzin, Robert, Legal Counsel; with Stikeman, Elliott

McIntyre, Mel, Executive Director

Perry, Ron, Second Vice-President

From the Ontario Human Rights Commission:

Anand, Raj, Chief Commissioner

From the Allstate Insurance Co. of Canada:

Groot, Steven L., President

Hickling, Herbert W., Vice-President, Corporate Relations

Boulanger, Francois, Senior Actuary

From the Co-operators General Insurance Co.:

Weafer, Bill, Vice-President, Financial Services Development

From the Independent Cab Owners' Co-operative Inc.:

Rotenberg, John, President

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, January 21, 1988

The committee met at 2:06 p.m. in room 151.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT
(continued)

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

Mr. Chairman: I recognize a quorum and there are representatives from all parties. The first delegation is the Ontario Mutual Insurance Association.

Just before these gentlemen come forward, you have a revised agenda before you, and I draw your attention to a couple of features of that revised agenda. If you look at January 28, the 3 p.m. deputation is cancelled.

Mr. Swart: If I might just note, it is being replaced. It is not being replaced by any collusion, but it is at that time the Manitoba Public Insurance Corp. will appear. I understand you have not yet got the official notification.

Mr. Chairman: All right.

Mr. Kanter: Mel has an inside track to Manitoba.

Mr. Swart: Well, some, yes.

Mr. Chairman: Also, if I could take you to February 1, we are returning, as you know, to Sudbury, this time, hopefully, to land. There will be a one o'clock delegation. You do not have it listed there, but the clerk will make us aware of who it is. There is a possibility of a further delegation at 1:30 p.m. So just keep those in mind.

That puts us into clause-by-clause discussion, starting Tuesday, February 2.

Those are all the public announcements, or private announcements, whatever you want to call them. The first group we have this afternoon is the Ontario Mutual Insurance Association, with a wide cast of people. Perhaps all that wide cast of people would come forward.

I understand the first four are Mel McIntyre, Robert Couzin, David Bailey and--it has here Susan Walsh, but none of you are Susan Walsh--Lorne Wolgemuth.

If you gentlemen would like to have a seat and identify yourselves for purposes of Hansard, then whoever is going to present the brief, which I understand is exhibit 36, would perhaps present the brief. Recognizing that we have a number of delegations this afternoon, it looks as if your brief would take about 10 to 15 minutes to read; then we would like to leave some time for questions from the members of the committee.

ONTARIO MUTUAL INSURANCE ASSOCIATION

Mr. Wolgemuth: Mr. Chairman, ladies and gentlemen, this delegation is from the Ontario Mutual Insurance Association. I would like to introduce at this time the members. To my left is Mel McIntyre, executive secretary of Ontario Mutual Insurance Association. To my right is David Bailey, the auto manager of our mutual reinsurance plan. To my far right is Robert Couzin, from the law firm of Stikeman, Elliott.

With your permission, Mr. Chairman, I would like to read the brief.

Mr. Chairman: Proceed please.

Mr. Wolgemuth: Farm mutual insurers: Farm mutuals provide a wide range of property and liability coverage to policyholders in rural communities in Ontario. They are local institutions which have withstood the test of time, having served the Ontario farming community for over a century. Initially established by groups of farmers in order to provide fire insurance on the premium note plan, at a time when such insurance was not otherwise available, the farm mutuals have come to occupy an important niche in Ontario's insurance industry, often providing services not readily available from larger insurers.

Until the 1950s, the farm mutuals wrote only fire and lightning insurance for their members. As they grew, and their policyholders required additional coverage, their underwriting extended to include various other perils and eventually liability insurance. The farm mutuals continue to provide the bulk of farm risks insurance in Ontario.

Recently, the farm mutuals have become increasingly active in the underwriting of nonfarm risks. In particular, with strong encouragement from the superintendent of insurance, a number of farm mutuals have been active in writing policies of automobile insurance. Certain insurers have been reluctant to write such policies, and the farm mutuals were therefore able to provide a much needed service in rural communities across Ontario. The involvement of the farm mutuals in automobile insurance therefore reflects both an expansion of their traditional role of providing insurance in rural communities and a response to a government initiative to provide much needed automobile coverage in the province.

Today, the farm mutuals in Ontario provide coverage to some 240,000 insureds and over half the premium is derived from farm sources. The majority of Ontario's farmers are members of the farm mutuals. The farm mutuals are wholly owned by these members.

The farm mutuals have a special status under the Insurance Act. All of the farm mutuals are members of the fire mutuals guarantee fund, established under the authority of the act, which provides for emergency mutual support to the group. All of the farm mutuals are required under the act to reinsure risks, and do so through another mutual company, Farm Mutual Reinsurance Plan Inc., of which they are members.

The Ontario Mutual Insurance Association is a provincial association grouping all of the 51 Ontario farm mutuals.

I would like to refer to the Insurance Bureau of Canada brief. This, I understand, has been presented.

The farm mutuals are not members of the Insurance Bureau of Canada, but have been provided a copy of the submission being made by that association to this committee. Generally, the Ontario Mutual Insurance Association supports the thrust of the IBC brief, and in particular concurs in the opposition to a shifting of economic costs which would be caused by deleting age, gender and marital status as appropriate classification tests for rating.

The Ontario Mutual Insurance Association also agrees that the function of the proposed rate review board is appropriate. Finally, like the Insurance Bureau of Canada, the Ontario Mutual Insurance Association feels that the underlying issue which should be addressed in the reform of this area of the law, if the goal is to provide efficient and less expensive automobile insurance, is tort reform and modified no-fault automobile insurance.

While these issues will be addressed to some extent in this brief, the main purpose of adding to the submission of the Insurance Bureau of Canada is to highlight particular aspects of the proposed legislation which in the view of the Ontario Mutual Insurance Association have the potential for a serious adverse effect on the cost and availability of insurance in rural Ontario.

The next paragraph refers to cost shifting. Any change in the classification system for automobile insurance shifts the overall burden of insurance to different drivers. Whatever may be the social-political considerations, if the current system more accurately reflects the actual risks than any classification system which may substituted for it, then this shifting of insurance costs necessarily implies cross-subsidization. The Ontario Mutual Insurance Association feels such cross-subsidization is inappropriate and, in particular, is concerned about the social and economic consequences depending upon which parts of the population are called upon to provide such subsidies.

If, under the new classification and rate-setting machinery, aggregate automobile insurance premiums remain at the same level and are merely redistributed, then the shifting of the economic burden will require other motorists to bear increased costs to subsidize certain existing classes of insureds. If total auto premium revenue is to decline, then the shortfall can only be made up in one of two ways; either there will be a shifting of economic burden on to those who insure risks other than auto or there will be a decline in surplus held by the insurers.

It seems patently unfair that those who insure farms or homes should subsidize those who insure automobiles. It is equally unpalatable to contemplate a significant reduction in the surplus of insurers across the province, which could lead inexorably to a reduction in the availability of property and casualty insurance generally and perhaps successive failures and bankruptcies.

The farm mutuals see this issue of shifting economic burdens from a particular point of view. Farm auto insurance is now normally treated as a separate class, with reductions off regular premiums of up to 40 per cent. The farm mutuals' private passenger farm classification represents 20 per cent of all private passenger premiums written by the farm mutuals. If the farm auto classification is dropped, some of the shifting of burden, which will be required to pay for the reduced premiums applicable to, for example, urban male drivers under 25 years of age, will come from the farm community through substantial increases in their premiums.

If there is general pressure on auto insurance rates such that there must be a shifting to other sources of insurance to fill the gap, then in the case of the farm mutuals this means, in effect, a subsidization of urban insurance by the rural residents of the province.

In summary, the Ontario Mutual Insurance Association expresses its serious concern that a new classification system which does not recognize age, sex and marital status as legitimate bases for the establishment of rates, and in particular, one which would not contemplate separate classification for farm risks, could have a very serious impact on the cost and availability of insurance in rural Ontario. This effect could be felt in connection with not only farm auto insurance but also the insurance of farm risks generally.

Speaking of classification, we suggest it is inappropriate that the basic classification system be established by the Lieutenant Governor in Council--section 19--while premium rates are set by the board--section 20. The complete separation of these two functions will exacerbate the two problems described. If the board wishes to maintain lower premiums for farm auto insurance, it would not be able to do so in the absence of an appropriate classification. There appears to be no equivalent system of hearings and consultation in connection with the classification system, as there is for rates.

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As a matter of substance, the Ontario Mutual Insurance Association suggests that the classification system should take into account the current practice of the farm mutuals in connection with insurance in rural areas.

Refunds of surplus: Section 25 of Bill 2 would establish an unprecedented restriction on the freedom of the board of directors of an insurer to manage the business and affairs of the corporation and an extraordinary interference with the property rights of members of a mutual insurance corporation. A farm mutual is nothing more nor less than a collection of policyholders. All the revenue of the mutual insurer is earned from dealing with the members and the investment of surplus generated from such dealings. It is the responsibility of the board of directors to determine the appropriate level of surplus, having regard to regulatory requirements and the needs of the business. It is the right of the members, subject to regulatory constraints, to retrieve from the mutual corporation funds in excess of current needs which effectively belong to them. Section 25 of Bill 2 would change all that.

The Ontario Mutual Insurance Association understands that changes are to be made to section 25, but is not aware of what these changes will be. As currently framed, section 25 is an insidious and even dangerous intrusion into the conduct of private business affairs and the very concept of mutuality.

If section 25 is to be retained at all, its only legitimate function should be to prevent improper avoidance of the rate-setting apparatus through discriminatory rebates. If the board establishes a rate for a particular class of insurance, it should take into account any rebates which may be paid by the insurer, whether a mutual or not, in determining whether there has been compliance with the act.

Tort reform: This matter is outside the scope of Bill 2, and that is precisely the point. At best, rate-setting machinery can merely correct inequities in the distribution of the costs of auto insurance. As noted above,

the Ontario Mutual Insurance Association does not believe the proposed classification system will do that. In any event, Bill 2 avowedly does nothing to address the aggregate cost of insurance. The current and anticipated cost of settling and paying claims must be reduced if automobile insurance reform is to be, and be seen to be, more than a sleight of hand.

Specific areas of reform to which immediate attention is required were highlighted in the Insurance Bureau of Canada brief to this committee, namely, the Family Law Act prejudgement interest, gross-up, collateral benefits of double recovery, joint and several liability and "good Samaritan" legislation. The cost impact of uncontrolled growth in liability awards simply cannot be ignored. The impact of recent changes to family law in the province and the rules respecting prejudgement interest are now being felt. Trends in the case law relating to collateral benefits and recognition of taxation of damages have also contributed to the focus of the government's concern.

A great deal of careful attention has already been given to this subject by academics and others. The Ontario Mutual Insurance Association urges this committee to recommend that action be taken to address the matter of tort reform. We also wish to emphasize that a modified no-fault system of automobile insurance must be implemented as part of the solution.

That is our brief, Mr. Chairman, and we anticipate some questions. With your permission, I would like to direct those to those most qualified to answer them.

Mr. Chairman: All right. I do not see any hands at the moment. Mr. Nixon had a comment to make, and then I will take the fellow in the red sweater over there.

Mr. Cureatz: May I go?

Mr. Chairman: No. I am going to allow Mr. Nixon.

Mr. Cureatz: Oh, I see.

Mr. J. B. Nixon: You have raised a number of points which I think are of interest. We all appreciate them as they are directed towards Bill 2 and that is what is before the committee. I would like to make a couple of comments on some of the points you raised. Amendments were tabled with the committee when the committee commenced its hearings, which may answer some of your concerns.

The first concern you raised that I would like to reply to is on page 4, section 13 of your brief, dealing with the classification. We propose to amend section 19 of the bill to effectively transfer the responsibility for setting the classification scheme over to the board and out of the hands of the government. So it would be set by the board, not by order of the Lieutenant Governor in Council. We agree with your sage advice.

The second is on the refunds of surplus. We are proposing an amendment to subsection 25(1) that would read, "No insurer shall issue a dividend in respect of a contract of automobile insurance unless the dividend has been approved by the board." I realize that may not answer all your concerns, but the intention of the amendment is to restrict the regulation of the issuance of dividends only to the auto insurance business.

Mr. Wolgemuth: Thank you very much, Mr. Nixon.

Mr. J. B. Nixon: I just wanted to make those preliminary comments.

Mr. Cureatz: On page 4 also, but section 12, I have asked this question before concerning those organizations that have come forward and have indicated that they are against a classification that does not recognize age, sex and marital status as legitimate bases for establishment of rates.

In all likelihood, the bill will proceed with the legislation as is, with minor amendments. That being the case, do you have any other possible suggestions to possibly try to reflect your concerns of classification of age, sex and marital status, but not necessarily being in those kinds of categories, or is it all or nothing? It has to be this way or nothing?

I am more interested in this second point because I have not seen this raised before. I now represent a large rural area; previously, for the past 10 years, my riding was part of the city of Oshawa, but I have lost that now. I am interested where you say: "...and, in particular, one which would not contemplate separate classification for farm risks could have a very serious impact on the cost and availability of insurance in rural Ontario." I am wondering if you might expand on that.

Mr. Wolgemuth: May I call on Mr. Bailey, our auto expert, on that, please?

Mr. Bailey: Again, at this point, it is conjecture as to what is actually in that classification system. Our understanding is that such discounts as farmers' discounts, as now permitted, would be done away with.

Mr. J. B. Nixon: There is something I did not clarify at the outset. I wanted to check with staff. The farm risk category is in the classification system. We can provide you with a copy of the classification system, which is a draft, just a proposal, and we are looking for advice. You may want to make further comments on it, but the farmers' category is included in the classification system. The woman who gave you the amendments can also, I think, give you a copy of the classification system.

Mr. Cureatz: Is that a separate classification method? Is that spread over the whole rural community, the burden of insurance, the responsibility for that?

Mr. J. B. Nixon: It is subject to the geographic territory. There are 28 geographic territories in the classification system and within each geographic territory there will be a variation of experience. For instance, the accident experience may be higher in the Owen Sound area than in Durham. So there will be variations within geographic communities, but there is a separate class for farmers.

Mr. Bailey: There is a separate class for the farm-rated business as we now have it. Is that what you are saying, Mr. Nixon?

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Mr. J. B. Nixon: I am not sure exactly how you have it. There is a separate class for farm risk. There will be a separate premium set for each geographic territory.

Mr. Bailey: I think our major concern was that the revamping of the class system certainly indicated some vast switches of premiums between individual insureds. We just saw that, should the farm classification credit now being permitted be done away with, those variations and changes would certainly distort it entirely, out of all proportion. This is one of our problems. It may be solved through this.

Mr. Cureatz: Yes, I was going to suggest that, with your study of it, it might alleviate some of your concerns.

Back to the first question: I am not sure whether it was answered.

Mr. Bailey: I do not believe it was.

Mr. Cureatz: Is it all or nothing?

Mr. Bailey: I think our main concern would be, can we viably have a program implemented all at once, with the changes that are going through? We are going to see changes from the system--no question about it--in the rating classifications, but can we do it in a viable sense, in a total change that comes at once?

Mr. Cureatz: A phase-in, possibly.

Mr. Bailey: Yes. There are elements. The very cost of trying to get information that now exists or does not exist, on the change from one complete rating classification system to another, will be horrendous. Our companies operate very individually and are very self-sustaining within themselves. The cost of every company going to a reprogramming job and all that is going to be quite an additional burden all at once, all the way down the line, with the complete change we are looking at.

Information I have looked at simply does not give the answers to me on the rural community we deal with. Studies I look at are basically dealing more with the urban situation.

Ms. Poole: I am referring to page 4 of your brief where you have made the statement that in the case of farm mutuals, this means in effect a subsidization of urban insurance by the rural residents of the province. You are referring specifically to the urban male drivers under 25 years of age. Do you have any statistics to show that rural male drivers are safer than urban, under the age of 25? Do you have anything to substantiate that claim, that the urban drivers would be subsidized by the rural drivers?

Mr. Bailey: I think we would be able to substantiate the fact that overall, our urban business would be subsidized by our rural customers.

When you are talking about urban and talking about rural, it can mean different things. If you are talking about writing business in the city of Toronto, our companies write nominal business in, say, the city of Toronto or the city of Windsor. They are on the periphery of those areas and do come in contact with them, but basically, we do not write in those territories; we write in the communities in which our companies are established.

Mr. Chairman: Mr. Nixon has a comment on that which may clarify it.

Mr. J. B. Nixon: The point you are making in paragraph 11 is premised on there being no farm classification, as I understand it. So the problem is eliminated once a farm classification exists.

Mr. Bailey: Yes.

Ms. Poole: Do you feel, I would not say quite happy, but at least a little more content with the act now you know there is going to be a farm classification? Also, Mr. Nixon mentioned that the Lieutenant Governor in Council would not be setting the classification scheme.

Mr. Bailey: I am sure we feel much more comfortable seeing one body responsible for the classification system and rate-setting. I think we would be much more pleased to see a rate review board than a rate-setting board.

Mr. Keyes: I have a question with regard to a breakdown within your policyholders. I notice you said that more than half your premiums come from the farms, but you were set up as a farm group. Obviously, there has been a fair tendency to move not only into the insuring of farm folk but also into the urban areas as well. I wonder if you would kind of give me a general breakdown of that, unless I am wrong with the way I read it on page 2, where you said, "Over half of the premium is derived from farm sources." You have 240,000 insureds, but because the premium for the farm classification is much lower, could you give me any type of breakdown of what that is?

Mr. Bailey: I think what has happened is the urban has moved to the rural, rather than the rural companies moving here. The gentleman we mentioned was from the Oshawa area. We have a company east of Toronto. It has become suburbia around them, just to the west of them. Obviously, people come to them for insurance. I do not have the figures myself to say the number of farm risks versus the number of--

Mr. Keyes: Urban.

Mr. Bailey: --home owners. You say "urban." We would count urban as being nonfarm business, even though it may be a house sitting right next door to the farm.

Mr. Keyes: Maybe I had better get back on the question then of how you actually classify them when you get three vehicles in the family. Quite often there is the family truck, which may genuinely serve the farm, but there could be another home vehicle which is used more for a member of the family who is working all the time off the farm in the city. Can you give me an idea? Do you limit the number of vehicles that can be insured under the farm category?

Mr. Bailey: You could actually have a situation where none of the vehicles, except maybe the farm truck, would be rated for farm use. You could have the farmer who works part-time and drives his vehicle to work and his wife drives her vehicle. None of those is rated as farm.

Mr. Keyes: OK. I wanted to get better clarification on how restrictive is the farm classification.

Mr. Bailey: We have been very restrictive in our underwriting on that point.

Mr. Keyes: What I was really getting at but not wanting to say is that I just wanted to be sure that we are not, in the whole insurance field, more or less giving a lot of people a break by writing them as farm classification when they are not used as such. I know that on many farms today there are more vehicles that are used in the business sense than the farm sense.

Mr. Bailey: A number of the directors of our farm mutuals, the vast majority, are farmers themselves. Rest assured they are looking to protect that company against abuse of that farm classification in the overall performance of their individual companies.

Mr. Keyes: I apologize for asking a third question. Do you have any type of breakdown then on the claims, as to how it has worked out? In frank terms, has the urban side of the insureds really been the one that has helped to subsidize the farm side, or has the farm situation remained on an accident basis, with the rest wholly supportive and more or less independent? I am sure you must break that down just to understand how your--

Mr. Bailey: Yes. I do not have the exact figures here with me, but we break it down into farm-source business. In other words, the situation I spoke to earlier about where the farmer's wife drives a car. We would still say that is farm-source business and not farm-rated business.

Mr. Keyes: What I am thinking of actually is the claims versus premiums. I will put it that way. Are the claims well offset by the premiums in that category?

Mr. Bailey: Yes. I do have some figures on that. Our nonfarm-rated business develops a 77 per cent loss ratio. Our farm business, even though it is discounted from that general rate, has a 76 per cent loss ratio. It is one point better, but the rates are considerably less.

Mr. Keyes: That is the very piece of information I wanted to find out.

Mr. Bailey: That is why it is important to us, as far as we are concerned--

Mr. Keyes: To retain it.

Mr. Bailey: --to see that the discount is still available.

Mr. Keyes: Thank you.

Mr. Runciman: Just a couple of questions. You mention on page 2 about 240,000 insureds. You were concerned about the cost implications complying with the requirements of Bill 2. I wonder if you could elaborate on that a little bit more. I know this question was raised in Ottawa the other day about the costs, for example, of re-underwriting; I think that is the term.

Mr. Bailey: Yes.

Mr. Runciman: You are going to have to re-underwrite every policyholder, and if you are looking at 240,000 insureds, I suspect that is a considerable amount of money we are talking about.

Mr. Bailey: I will stand corrected. Those are not 240,000 automobile insureds. Those are insureds who are members of the farm mutuals property--

Mr. Runciman: How many of those would it be?

Mr. Bailey: I would guesstimate we probably insure 60,000 as automobile insureds, who, for the most part, have their property insurance as well.

I think we have to bear in mind we have 37 companies, farm mutuals, that actually write automobile insurance. The total premium volume is about \$25 million. Each company has to go through the whole process, not only just reunderwriting the portfolio but also establishing its own computer system in doing it, although most of them have them. It is all individually done. As I say, it is not a company setting one program up and handling \$26 million worth of premium. It is 37 companies having to do the same thing within house.

Mr. Runciman: Right. But you foresee a rather significant expenditure, obviously, for anyone in the auto insurance business?

Mr. Bailey: Yes.

Mr. Runciman: It is difficult to put any kind of a ball-park figure on it, I guess. The chap in Ottawa suggested at least two bucks per policyholder as a reunderwriting cost, and I do not know what other costs might be associated with it.

Mr. Bailey: I would easily recognize that dollar figure and I would say probably a little bit more, because if we are getting into waiting on convictions more than has been done, obviously, more motor vehicle abstracts are going to be ordered, that increasing the cost too.

Mr. Runciman: The concerns you expressed in here about section 25, "an insidious and even dangerous intrusion into...private business affairs," I share that feeling. I just wonder if you might elaborate on some of the problems you might foresee as a result of that provision of the bill.

Mr. Couzin: I think the point on section 25, even as amended, is that the Ontario association can understand the concern there would be that you cannot very well have a rate-setting body and then let the insurer give rebates or refunds of surplus, as it may be, to all the insureds over 25 or something. You have not accomplished anything. As an avoidance rule, it makes sense.

I think the problem we are perceiving is that it is only the mutuals that give refunds from surplus. Nobody else does it. The refund from surplus is simply giving the policyholders back their own money. In fact, although it does not say it in the Insurance Act, the refunds from surplus are not given to people over 25 or whatever. They are given pro rata to everyone, like a co-operative in effect, on the basis of the premiums. So it is not really the kind of refund from surplus that one would have imagined the legislator could have worried about. In other words, it is not an attempt to get around the classification system.

I think the feeling is that, if one wanted to retain section 25 as a kind of antiavoidance rule saying you cannot give rebates which contravene the classification system and thereby, in effect, undermine the classification system, I do not think anyone would mind that. That is not peculiar to mutuals.

I think the concern, as I say, is that what you are really saying, even as reworded, is that the mutuals, even if they want to give back \$1 for every \$100 of premiums written to everybody, cannot do it without going to the board. I do not really understand why it has anything to do with the board, frankly.

Mr. Runciman: You are probably not in a position to answer this. Perhaps the parliamentary assistant may want at some point to elaborate on the rationale behind this particular provision. I have a lot of difficulty with it myself.

Mr. Chairman: Mr. Keyes had a supplementary. Briefly though, Mr. Keyes.

Mr. Keyes: The supplementary would be that surely that should not worry you about going to the government for support. If you want to give back \$1 per \$100 of insurance, and you said you would give it to everyone, all you do is that when you set your rates next year, it would be very simple to take that into account, because that is the rate.

Mr. Bailey: No.

Mr. Couzin: But you realize that everyone is not only auto, of course. This is not an auto insurer. So what you are really saying is that, even if the company wants to give money back to all of its policyholders and only 60,000 out of 240,000--that is for all of the companies--may be auto insurance policies, it is just a jurisdiction question.

It seems inappropriate that the company should have to go to some rate-setting board and make an application to give people back their own money, when it really has nothing to do with the rate-setting machinery. That was the point.

Perhaps we are misunderstanding the rationale for the section. We do not understand why it is there, other than perhaps to prevent people from simply getting around the system, which, of course, we would agree with.

Mr. J. B. Nixon: You are absolutely right that it is an antiavoidance rule. Of course, as an antiavoidance rule, it would have no force and effect if it was not required that a mutual give us notice--essentially, that is what the provision requires--and seek approval for the issuance of a dividend. Otherwise, the business of issuing dividends could be carried on whenever a mutual company desired to do so. The board would have no prior knowledge. It would depend on an individual to know another individual who did receive a dividend or did not receive a dividend and then bring a complaint. Not only is it an antiavoidance rule; it has to have some policing mechanism. That is the reason it goes before the board.

I am not sure I understand the jurisdictional question, because the purpose of the amendment, and maybe I did not get that clear, is to restrict the purview of the board to simply those dividends which deal with automobile insurance. We perceive that is within the jurisdiction of the board, or perhaps I misunderstand you.

Mr. Couzin: I guess I am saying that in practice it does not work that way. There are not refunds of surplus paid to auto policyholders. The refunds of surplus are paid to all the members.

Mr. J. B. Nixon: To the policyholders.

Mr. Couzin: To the policyholders, but they are not all auto policyholders; most of them are not.

Mr. J. B. Nixon: Clearly, there is a way, with your computers and your programs, to distinguish between a person who owns a policy of auto insurance and a person who holds a policy of household insurance.

Mr. Couzin: Yes, I agree with that.

Mr. Runciman: Or else Big Brother will be there.

Mr. Bailey: One of the things we would like to have recognized is the fact that the automobile business represents possibly 22 per cent of all the business written by the farm mutuals. When we are dealing with refund from surplus, we have only been in the business for 10 years but that surplus has been built up over 100 years by property insureds by the farm mutuals. That is where the money is coming from basically; it is not from a long-term commitment with automobile. Again, to distinguish means to change everything else with the farm mutuals.

Mr. J. B. Nixon: Just following up on that, may I ask a question? Why would there be an across-the-board issuance of a dividend or a refund of surplus in equal amounts? Why would not the people who hold the property policy benefit from that long-term investment in building a surplus, as opposed to the book of auto insurance, where you are probably losing money, certainly on an underwriting basis, if you are like the rest of the industry?

Mr. Bailey: Ron, would you like to answer that, on the question of surplus?

Mr. Chairman: It would be much appreciated if that answer could be in the form of two words or perhaps less. We are running behind schedule and we do have a large number of groups waiting. Perhaps with those thoughts in mind, you could make it as brief as possible.

Mr. Perry: Could I just ask for the question to be repeated?

Mr. J. B. Nixon: You issue dividends or refunds of surplus across the board pro rata on the basis of premium dollar paid. To me, that would not make sense, because you are also making the argument that the long-term investment and the long-term profitability has been in the property casualty area, not in the auto area, if you are like any other auto insurance company. So what entitles the auto insurance policyholder to the same benefit as a household insurance policyholder?

Mr. Perry: Quite simply, in a couple of words, the whole concept of mutuality is what comes into play. We look at it that all policyholders are part of that company. We have that fund of money; it goes together; we do not discriminate against one versus the other. Therefore, the refund is based on the fact that the whole company has done well, not as to whether one segment of it has done well and another has not.

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Mr. Chairman: Thank you very much. We appreciate your coming before us. We are sorry that time constraints perhaps require us to be a little more

stringent with time. We appreciate your information and we will certainly take it into consideration.

Mr. Wolgemuth: Thank you very much for your time.

Mr. Chairman: The next group is the Ontario Human Rights Commission. The chief commissioner is here. Mr. Anand, perhaps you would have a seat and identify yourself for Hansard. We are looking at exhibit 37, committee members.

ONTARIO HUMAN RIGHTS COMMISSION

Mr. Anand: Thank you, Mr. Chairman. As set out at the top of my submission, my name is Raj Anand. I am the chief commissioner of the Ontario Human Rights Commission, at least as of the last two and a half weeks.

Mr. Chairman: We welcome you and wish you much success.

Mr. Anand: Thank you very much.

I am pleased to have this opportunity to address Bill 2 from the human rights perspective. I will begin by describing the commission's general interest in Bill 2, and then I will address the commission's historic concerns respecting acceptable classes of risk exposure, as alluded to in sections 19 and 29 of Bill 2, which cause the commission to support the proposed changes.

It is one of the statutory functions of the Ontario Human Rights Commission to forward the policy that the dignity and worth of every person be recognized and that equal rights and opportunities be provided without discrimination that is contrary to law. Beyond this, the code prescribes a more specific function for the commission: to examine and review any statute or regulation and any program or policy made by or under a statute and make recommendations on any provision, program or policy that, in its opinion, is inconsistent with the intent of the Human Rights Code.

The commission interprets this mandate to mean that it has a duty to promote the principle that all persons in Ontario have a right to be judged on their own merits rather than being rewarded or penalized on the basis of stereotypes and generalities which may or not apply to them as individuals. With this mandate in mind, the commission takes great interest in the potential for Bill 2 to enhance protection from unreasonable discrimination in the automobile insurance industry.

Sections 1 and 3 of the Human Rights Code provide that every person has the right to equal treatment with respect to services and the right to contract on equal terms without discrimination on 13 enumerated grounds. Among those grounds are the ones that we are concerned with here. With respect to certain forms of insurance, section 21 of the code currently qualifies these rights by allowing distinctions, exclusions or preferences "on reasonable and bona fide grounds because of age, sex, marital status, family status or handicap." So there is a qualified exclusion in the Human Rights Code.

As I am sure many of you are aware, the commission has recently challenged the distinctions based on age, sex and marital status currently made within the insurance industry as not being reasonable and bona fide and tested this position before a board of inquiry in the case of Bates against Zurich Insurance Company of Canada.

The board of inquiry found in that case that statistical evidence might well indicate that unmarried people, males and the general category of drivers under age 25, did have a higher frequency of claims and that their average claim costs were higher than other insured drivers.

The board stated, however, that extreme care should be exercised in giving too much weight to statistical evidence. The board adopted the principle expressed by an earlier review tribunal at the federal level that: "...The basic premise of human rights legislation is that the merits of the individual should be assessed. Otherwise, bona fide ... requirements might be established simply on the basis of statistical averages of group characteristics. This would merely be stereotyping in a new format which is, if anything, more invidious than traditional prejudices because it has an apparently scientific base."

Very briefly, what is being got at here is that if you take any of the 13 grounds that I referred to in the Human Rights Code and classify insurance risks according to, for example, race, ancestry, national origin or any of the others, you will inevitably find, on the average, differences among groups. But human rights considerations say that such differences do not justify classifying on the basis of those stereotype characteristics.

In applying that principle to the case of automobile insurance classifications, the board found that there was simply no evidence to support the assertion that there was scientific proof of a direct causal relationship between the factors of age, sex and marital status and high risk. The board bluntly stated that "the insurance industry cannot rely on its inaction and tradition to support a discriminatory rate classification system."

What the board was pointing to there was the fact that, over time, the insurance industry has gradually got away from classification of premiums based on such discriminatory characteristics, to the point where in this case these characteristics--age, sex and marital status--were used only for under-25 drivers. For over 25, there were neutral criteria used, such as the type of use and the amount of use of the vehicle.

The board of inquiry also pointed out that there were nondiscriminatory alternatives available by which appropriate risk classifications could be determined. In fact, the board observed that the insurance industry currently relied on nondiscriminatory factors in establishing premiums for persons who were 25 years of age or older--that is the position they had gotten to by then--and that there was no evidence to suggest that these nondiscriminatory factors could not be used for insured persons who were under age 25.

As a result, the board of inquiry concluded that the respondent insurance company, with the assistance of the industry, was unable to show that its practice of establishing premiums on the basis of age, sex and marital status was reasonable and bona fide so as to bring it within the exemption in section 21 of the code.

The Divisional Court heard an appeal from the board's decision and held that the insurance industry's rate classification system was reasonable and suitable in the absence of an alternative system. In the words of the court, the classification system was, in effect, the only game in town. The court said, in effect, that such a system based on these discriminatory criteria was not necessary, but it was reasonable at the time in view of the statistics that were available to the insurance industry at the time. Our commission

elected to appeal this decision to the Court of Appeal. That court has granted leave and the appeal has not yet been heard.

On April 23, 1987, the Minister of Financial Institutions announced that a uniform, mandatory classification system would be established for determining automobile insurance risks. This commitment expressly rejected age, sex and marital status as factors for the determination of risk classifications and suggested in their stead the use of risk-related factors currently used to assess risk and classify most drivers in Ontario--that is, those over the age of 25--such as the number of kilometres driven each year, the use and type of vehicle being insured and the insured's personal driving record.

We understand that this uniform, mandatory and nondiscriminatory system is to be implemented by regulation pursuant to section 19 of Bill 2. The commission has examined a consultation draft of the proposed classification system and supports the proposal as one that will remove unnecessary, and therefore unreasonable, discriminatory risk classifications from the automobile insurance system and will replace them with a classification system that is more reasonable and equitable.

The commission would also welcome any initiative directed at altering the somewhat anomalous situation which will result on passage of Bill 2, in that section 21 of the Human Rights Code, which still remains at this point, may well be read to allow the type of distinction in a human rights context which Bill 2, through its regulations, will prohibit. One such effort could involve an amendment to section 21 of the code to remove automobile insurance from the list of potential exemptions to the code. In the commission's view, such an amendment would complement the Bill 2 initiative and would be welcome to us.

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In summary, the commission strongly supports this initiative to replace the existing overly broad factors used in the automobile insurance industry, which have the potential to unfairly penalize individual drivers who constitute, in fact, low risks, with neutral and nondiscriminatory ones.

Thank you for this opportunity to comment on an issue which is of concern to the human rights of all Ontarians.

Mr. Chairman: Thank you. I have Mr. Swart and then Ms. Poole.

Mr. Swart: I will be brief. I just have two questions.

We are glad to have you here and commend you for the work you are doing. I hear nothing but good things about it. My party and I agree totally with the submission that you make here.

You say on page 3, the board agreed with the federal tribunal, to put it in layman terms, that by not removing sex, age and marital status, you are in fact discriminating even more against the good young drivers who must pay three to five times, as they do now, what older drivers pay. In other words, they are subsidizing the other young drivers. Am I right in that interpretation of the last sentence, "This would merely be stereotyping a new format which is, if anything, more invidious than traditional prejudices because it has an apparently scientific base"?

Mr. Anand: I think you are quite correct. In classifying on the basis of these criteria, you are ignoring the fact that for every young male, unmarried driver who constitutes a high risk, there will be one who constitutes a low risk.

Mr. Swart: Therefore, there is a real injustice against him.

The second question. Would you--I think not--object or see any difficulty in us including a clause in this bill--as you know, under the present legislation it is all left to classification, first, by the government, second, by the board--

Mr. Chairman: If I could just interrupt, I think that is really something that would be a point of order in this committee. I think to ask the question--or to include it in this bill, anyway--

Mr. Swart: This is not a point of order. I am just trying to ask--

Mr. Chairman: No, but to include it in this bill.

Mr. Swart: Yes, but I am saying would you have any objection or see any disadvantage in including directly in this bill a clause which would prevent the board--or, for that matter, the government--from setting classifications which would be based in any way on age, sex, marital status, handicap, family status? Do you see any objection to that?

Mr. Anand: Let me say two things about that. First, I obviously do not object to the principle of that being legislated, for the reasons I have elaborated on at some length. Nevertheless, I would object to that statement being placed in this bill as opposed to the Human Rights Code itself, for two reasons.

First, the Human Rights Code section 21 exemption would still exist and would co-exist with the proposed amended bill you are putting to me as a hypothetical. That strikes me as an unsatisfactory situation, where the Human Rights Code, which is intended to express human rights principles in this province, would be out of keeping with the protection of human rights in another statute.

Indeed, it could result in legal anomalies, where something that is permitted under the Human Rights Code is prohibited under an insurance statute. In order to enforce that prohibition you would have to take proceedings, presumably, to the automobile insurance board, whereas we would be powerless to deal with such a problem of discrimination. My much preferred course would be an amendment to the Human Rights Code for this sole purpose, to take out the word "automobile" so as to prevent this form of discrimination under the code.

Mr. Swart: Let me ask a supplementary, if I may. You would agree, of course, that we are dealing with the question of lower pay for women, which in effect is a discrimination, through a separate bill, equal pay for work of equal value, not in the Human Rights Code.

I would agree with you that the Human Rights Code should be amended, and as soon as possible. We do not have it before us at this time and any amendment will be several months down the road.

Would it not send the right message if we put it out in this bill to the public and to the insurers that this is a principle on which this committee and the government at this time are in accord, that there shall be no discrimination based on age, sex, marital status, etc.?

Mr. Anand: Mr. Swart, I was going to say there were two reasons that I had objections--

Mr. Swart: I think my question deals with both of those reasons.

Mr. J. B. Nixon: You have interrupted the witness, Mr. Swart.

Mr. Anand: Sorry, Mr. Swart, I just wanted to state my second. I did not get to my second, actually.

The first reason was that you would have an anomalous situation where something that is prohibited by an insurance statute in a human rights prohibition is at least qualifiedly permitted in the Human Rights Code. This is not merely a theoretical problem; it could result in legal anomalies.

The second point, however, is that your proposal, inserting a provision in this bill, might mean the proposal would have to say that we intend to override the Human Rights Code. In essence, that is what you are saying. You are saying the Human Rights Code allows something and we want to insert something in this bill to make an unmistakable statement of principle, as you say, which I agree with, as a matter of principle, but which would have to say, "Notwithstanding the Human Rights Code, it is prohibited" in certain ways.

I object in principle to that kind of method being used, because if it is used once it can be used more than once and it can proliferate in Ontario statutes that other statutes override the Human Rights Code. The Human Rights Code was deliberately written in this province and has been stated by the Supreme Court of Canada numerous times to be quasi-constitutional in the sense that it is intended to be higher in authority than other statutes. I would be most concerned at the precedent being set that a statute would say "notwithstanding the Human Rights Code," such and such.

Mr. Swart: It did not bother you, though, on equality for women in pay?

Mr. Anand: There is nothing in the Pay Equity Act that overrides the Human Rights Code; it complements the Human Rights Code.

Mr. Swart: But it takes the initiative, not the Human Rights Code.

Mr. Anand: Yes.

Ms. Poole: I was just going to comment on a statement by the minister at the beginning of our hearings. It is my understanding, and perhaps Mr. Nixon would correct me if I am wrong, that the minister signified the government intends to amend the Human Rights Code for that very reason.

Mr. Chairman: It sounds like a question of Mr. Nixon perhaps. Perhaps he can say yes and then we can go on.

Ms. Poole: Am I correct in that?

Mr. J. B. Nixon: The answer is yes.

Ms. Poole: My understanding also from what the minister said very closely followed up on your comments right now. It was that if the Human Rights Code were amended, it would make it superfluous to actually include in the bill itself, instead of in the regulation, that discrimination on the basis of age, sex, and marital status would not be tolerated. In light of your comments, do the minister's comments make you feel much better, if the Human Rights Code is indeed going to be amended in that regard?

Mr. Anand: Yes. It is something I have advocated in my submission, as you know. I guess my only concern is that it indeed be done and that it be done soon. I know it is a matter that has been discussed in this committee and it appears it is not going to be done in this committee. I would only wish to say that I would want it done in some other way.

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Mr. Chairman: It looks as if we have all-party agreement on it. Anyway, it sounds like it. I thought I would put that hooker in and try it on.

Mr. Runciman: I am just curious about this suggestion. I wonder if the witness is suggesting that an amendment to the code would be specific to auto insurance?

Mr. Anand: Yes. I might have other things to say about other possible amendments, but in this committee I am speaking of automobile insurance.

Mr. Runciman: You are suggesting an amendment to the code?

Mr. Anand: Yes.

Mr. Runciman: You are suggesting that amendment would deal specifically with the risk classification system?

Mr. Anand: I do not believe you have section 21 before you in any way. I will not read it at great length, but let me quickly paraphrase it. It says the right to equal treatment, which I referred to earlier, without discrimination because of age, sex, marital status, family status and handicap is not infringed where a contract--and it lists the number of types of insurance: automobile, life, accident, disability and so on--differentiates or makes a distinction which is reasonable and bona fide. It provides a qualified exemption to an insurance company in several fields. What I am suggesting here is that if you take the word "automobile" out of that section, you do the job.

Mr. Runciman: That is all you are going to be looking for?

Mr. Anand: In the context of this bill, certainly.

Mr. Runciman: In terms of your long-term goals?

Mr. J. B. Nixon: I do not know if the commissioner is prepared to comment on future government policies.

Mr. Runciman: I object to the parliamentary assistant intervening at every opportunity.

Mr. Swart: I want to join with that. I have never sat on a committee where the minister and parliamentary assistant interjected. They have been there as a resource person before to answer questions. To interject when somebody is halfway through a question because they do not like what that questioner is saying or is implying is contrary to all the past principles involved in these committees.

Mr. Runciman: Mr. Chairman, I think it is quite relevant that Mr. Swart is suggesting a specific amendment to this bill and he is being shot down, more or less. I am saying that maybe he would have support from me if the commission's objectives in this were much broader than what we are talking about in terms of this bill. I certainly have some concerns if that is the case and I would like to know what their intentions are.

Mr. Chairman: I think that is a fair question to the commissioner.

Mr. Anand: You will appreciate that I have been on this job, as I indicated, for about two and a half weeks. I have a number of concerns with numerous portions of the Human Rights Code. One of the things I am going to be doing in the next couple of months is setting up a policy and research unit, one of whose functions will be to examine the code for a number of ways in which I believe it can be improved. Section 21 is one of those. There is no question about it.

Mr. Runciman: You really have not determined--

Mr. Anand: That is correct.

Mr. Runciman: OK. I am just curious about your own views when you talk about age as reasonable and bona fide grounds for discrimination. How would you feel about it in terms of the driving age, 16?

I have known some pretty mature 14- and 15-year-olds. I guess we could carry this on. I am a little concerned about opening the door in this whole matter and where it ends. I guess I would not mind hearing your observations on that.

Mr. Anand: What I said was that lines drawn on prohibited grounds should not be permitted unless they are absolutely necessary, and there is no doubt that there has to be a driving age. If you say that 16 is not the age and your 14-year-old is mature, then if you make it 14, there will be a 12-year-old who is as mature as the 14-year-old and soon you are going to have toddlers at the wheel.

Mr. Chairman: I read about one recently that killed a person or did something that certainly led the police a merry chase, with the aid of a Bell telephone book I am sure.

Mr. Anand: There is an easy answer to your question which, essentially, avoids it, which is that 16 is not with the code within a prohibited age. It starts at 18, but I do not want to take the easy way out on that. I think the answer is there has to be a driving age and I do not have any concerns about it being 16.

Mr. Runciman: We could get into all the other things like military service and drinking and so on. You devoted close to two pages to the board of inquiry results and about one sentence to the Divisional Court judgement. Was the Divisional Court judgement that brief?

Mr. Anand: I have it here, if you like.

Mr. Runciman: I think it would be helpful.

Mr. Anand: I do not mean to hide it in any sense. It is about six pages long.

Mr. Chairman: Perhaps we could have a copy of that and make it available to the committee.

Mr. Anand: Certainly. The board of inquiry judgement is about 40 pages long.

Mr. Runciman: The presentation appeared to be rather weighted, two pages to one sentence.

Mr. Chairman: I think if we are going to have the Divisional Court judgement, we should also have the previous one so that we can see what issues they did deal with.

Mr. Anand: May I undertake to provide those to you? I do not think you would want the copies that I have scrawled all over right now.

Let me just say that there is a reason for that. It is not that I was trying to hide what the Divisional Court said. The Divisional Court is a court of law, obviously, that deals with narrower grounds than a board of inquiry. It can deal only with certain points of principle. It stated its conclusions, as it often does, relatively briefly.

The board of inquiry dealt with the evidence at great length, and it was only the board of inquiry that dealt with the evidence. So what appears in my brief is the consideration of the evidence that only one of those tribunals dealt with.

Mr. Chairman: Just for clarification, and you have the cases there before you, would it be fair to say that in the reference to the federal level quote and the continued existence of section 21 under the Human Rights Code, there would have been some reference in that case to the question of whether this might not eventually be resolved by the Supreme Court of Canada under subsection 15(1) of the charter.

Mr. Anand: There is no reference in either of the cases to that, but again, there is an easy legal answer for that. They were not asked to look at it. I think it is quite fair to say that a provision such as section 21, which exempts on these prohibited grounds--

Mr. Chairman: On stereotyped grounds.

Mr. Anand: --on stereotyped grounds, could well fall afoul of section 15 of the charter in the same way the Blainey exemption did.

Mr. Chairman: And would not be relieved by what is in section 1.

We have had a lot of groups come forward and object to the removal of that provision because they felt that was an underwriting fact that they should take into consideration. It has always been my belief--and I think maybe you have answered it--that it is either pay me now or pay me later,

because it will eventually be decided, probably on subsection 15(1) of the charter.

Mr. Anand: I think that is a distinct possibility. Again, not to postpone the answer, that is something our legal and policy units intend to look at very carefully.

Mr. Chairman: Thank you very much. We appreciate your coming forward and we wish you, as we did earlier, Godspeed and perhaps a bit of luck too, because jobs like this are difficult to take on. We wish you great success.

Mr. Anand: I appreciate that, Mr. Chairman.

Mr. Chairman: If you could provide those documents to the clerk of the committee, we can arrange to have them prepared in enough numbers for the members here.

Mr. Anand: I will have them forwarded today or early tomorrow.

Mr. Swart: I would just like to raise this point of order again, if I may. There is no bitterness in this, but I think we have to recognize that the parliamentary assistant sits here as a member of the government, without a vote, on this committee. The past practice has been, under the Conservatives, that he is there as a resource person. There are six other Liberal members here to ask questions. We have two New Democrats and two Conservatives. We can get all the points out.

I do not mind if somebody asks for factual comments or even if the parliamentary assistant himself asks to make factual comments, but I do not think it is his job to interfere, either with members of the committee because they are asking a question he does not like or because a person who is giving evidence is giving evidence that may not be in accord with his wishes.

I think that is a legitimate point, Mr. Chairman. I leave it with you. Others may have another view on this.

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Mr. Chairman: I thought what Mr. Nixon was trying to say was that he cannot make a commentary on policy. If that is what he was doing, he was in fact doing what you are suggesting he should be able to do, to answer--

Mr. Swart: But not in the middle of when somebody is speaking.

Mr. Chairman: I would certainly agree with you that Mr. Nixon, just as any member of this committee, should go through the chair.

Mr. Swart: But he is not a member of the committee; he does not have the same privileges as a member of the committee.

Mr. Chairman: I think what he was doing was acting perhaps as a resource person, assisting you on something I am sure you either should know or do know, that the commissioner cannot establish policy; it is done by the government.

In any event, I have taken into consideration your objection and Mr. Runciman's, and I agree. I am sure Mr. Nixon will be guided by that in the continuation of these hearings.

Mr. Runciman: I do not want to be negative in this respect, either. We appreciate Mr. Nixon's presence throughout these hearings, but I think what Mr. Swart wanted to emphasize is that he is not a member of this committee and does not have the rights of members of the committee in terms of intervening. At times, he appears to be directing you, Mr. Chairman, in terms of how we deal with the committee. I think that is totally inappropriate.

I certainly do not have any objection, when I have completed my questioning of any witness or what have you, to his asking for an opportunity to have input. That is fine. But to jump in and take us on, if you will, I do not think is appropriate. It is essentially unheard of, as Mr. Swart said.

Mr. Chairman: I do not want to prolong the turmoil, but I would say this to you. It is my understanding of the standing orders and also the tradition around here that every member of the Legislature has a right to sit on any committee and has a right to--

Mr. Runciman: He is not in that role.

Mr. Chairman: In any event, I appreciate your comments, Mr. Runciman.

Mr. Runciman: If he wants to put a staff person up there, he can sit down here. That is fine.

Ms. Hart: I am quite concerned about the process. We have now had this point of order raised twice, exactly the same point of order. It is like taking two kicks at the can. You say it is not personal, but it obviously has to be if you are going to take two kicks at the can within five minutes. I think all of us can forgive a little enthusiasm by the parliamentary assistant. He clearly knows the subject very well.

Mr. Chairman: Let us move on to the more important aspects of this, namely, the witnesses who have given of their time to come here today. We will move on to Allstate Insurance Co. of Canada.

I would like to welcome you to the family dispute. Just like every other family, we have our little disputes. We appreciate your coming forward, Mr. Groot. I wonder if you would identify the other members for purposes of Hansard. Then, I understand, there is a written submission, which is exhibit 38. Perhaps you could read that and leave enough time for questions by the members of the committee.

ALLSTATE INSURANCE CO. OF CANADA

Mr. Groot: My name is Steven Groot. I am president of the Allstate Insurance Co. of Canada. With me here today are Herbert Hickling, vice-president of corporate relations, and François Boulanger, our chief actuary. We appreciate this opportunity to meet with your committee.

Allstate is the fourth largest insurer of automobiles in Ontario. We have been in business here for 35 years. We currently service almost a million policyholders in automobile, personal property, life and commercial insurance across all provinces and territories. In Ontario, we employ 1,300 people, including 300 agents.

I am a fellow of the Casualty Actuarial Society and a lawyer licensed to practise in California. We have, and I have personally, through our parent

company in the United States and in Canada, had extensive experience with rate classification plans, rate boards and no-fault plans in many different forms.

We understand and support the need for change in Ontario. For these reasons, we have participated extensively with government and industry over the past year or so, including submissions, hearings and in some cases meetings with the ministry, Dr. Slater, Professor Waddams, Mr. Justice Coulter Osborne and in public. I hope we can be of some help in your deliberations as well. We are here today because the difficult questions facing your committee are of great importance to our customers and my company.

As a company, Allstate lost \$25 million in private passenger auto business in Ontario in 1986 after investment income, and we expect that to ring in at about \$19 million in 1987, when all the results are known. I mention these numbers not because I am looking for sympathy for my company or the industry, but to offset some of the misleading information, myths and misunderstandings that are frequently voiced about automobile insurance. My company and my industry are not looking for subsidies or government bailouts, but we are seeking to provide the public with the service it needs and deserves in a way that is acceptable.

We all know that continually higher premiums are not desirable and, as premiums are driven by costs, therefore, costs must be reduced. In our opinion, the only way to reduce the net cost to the system is to reduce the actual cost of claims. I do not think anyone would suggest that we should simply pay out less, but rather that the claim process and expectations need to change. At this point, we are not talking about simple or minor changes but significant changes in the system.

We agree that all accident victims deserve to recover their full economic loss without recourse to the courts. We believe the only way to provide increased accident benefits, while reducing the pressure on the consumer's premium dollar, is to impose some forms of restriction on the legal system. The dollars to be saved are significant.

It is for these reasons that Allstate supports a form of modified no-fault, along the lines presented to Mr. Justice Coulter Osborne. It is unfortunate that Justice Osborne's report is not currently available as part of these deliberations, because it would seem to me that his findings are essential to all the questions being studied here. Similarly, I believe that the tort reforms under study by Professor Waddams are also an important factor in accurately assessing the future loss costs and the resultant premiums that will be necessary to fund enriched benefits that everyone seeks.

Having identified rising insurance premiums as the overall public, government and industry concern, as I believe you will agree, and the relative cause for that, with options for resolution, I turn to the other related issues specifically encompassed in Bill 2.

Bill 2 calls for the elimination of age, gender and marital status in the rating of policies. This issue, of whether the use of age, gender and marital status as classification variables is appropriate, has been strenuously debated throughout Canada and the United States for a number of years. It is an issue which has been presented as not only having great economic consequence, but a great measure of social significance.

Opponents of classification methodologies utilizing factors such as age, gender and marital status argue that these systems are socially unacceptable in that they discriminate unfairly, based on factors which are practically beyond the control of the individual. Insurers argue that to fail to distinguish between groups with markedly different experience would itself be unfair, by improperly matching the price charged and the risk assumed. Age, gender and marital status are indeed valid identifiers of future experience.

Any attempt to eliminate these variables will result in a redistribution of premium amongst the insured population and adult drivers. The premium dislocation resulting from the elimination of these criteria could be minimized if these were the only changes.

The imposition of a uniform class plan as proposed under Bill 2 would not only result in the elimination of age, gender and marital status, but also in the elimination of all other variables which are not part of the proposed plan, with the effect of compounding the dislocation on our customers.

For example, Allstate would be prevented from offering the discount we pioneered for senior citizens, our discount for multiple cars and for driver training.

Allstate, and for that matter industry, has no hidden interest or desire to establish pricing advantages for one group and disadvantages for another. Our purpose is simply to determine loss likelihood amongst various categories of drivers, and then to set the premium that best represents the likelihood of loss for that group.

Through its research centre, Allstate is continually looking to improve its rating system to give its customers better value for their insurance dollar. Extensive research has clearly demonstrated that seniors should benefit from a discount; that multiple vehicle policies should benefit from a discount; and that different vehicle makes and models damage differently and crash and repair costs differ due to design and construction.

Similar research by others has led to the offering of a senior citizen discount by the Insurance Corporation of British Columbia and a recommendation in the Mercer report for a multicar discount.

We believe there is no support and no need for a uniform class plan. There is no overall savings to either the system or the insureds. Insureds should benefit from the innovations that a free market has brought and can bring. In our opinion, a uniform class plan will indeed produce unnecessary hardship to our customers and severe dislocation in the marketplace, as I will now try to demonstrate.

Allstate has determined the combined impact on our customers through the elimination of age, gender and marital status and the imposition of a uniform class plan. About 28 per cent of Allstate policy holders would receive an increase of more than 10 per cent, and about 13 per cent would receive increases of more than 20 per cent, with no change in overall company income; simply redistribution of premium. Here are some examples:

Retired couple living in Chatham with over 35 years of driving experience, no accident in the past six years, no traffic violations, owners of a 1983 Olds Delta and a 1984 Ford truck: Their current premium with Allstate is \$609. Under the proposed plan, it would be \$1,049, an increase of 72 per cent.

Oakville resident, licensed for seven years, no accident in the past six years, no traffic violations, owner of a 1984 Plymouth Reliant and a 1981 Toyota Corolla: Current premium is \$916; proposed premium, \$1,374, an increase of 50 per cent.

Belleville resident, licensed for 20 years, no accident in the past six years, no traffic violations, 1986 Buick Century: Current premium is \$365; proposed premium, \$507, or 39 per cent.

Ottawa resident, licensed five years, no accident in the past five years, no traffic violations, owner of a 1985 Mercury Marquis: Current premium is \$549; proposed premium, \$807, an increase of 47 per cent.

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These dramatic dislocations still take place, despite the fact that Allstate uses the same desirable rating factors that government favours, such as driving experience, accident record, driving convictions, use of vehicle and annual mileage. It also incorporates the multicar discount and additive surcharges for accidents and violations, as proposed in the Mercer report.

The bottom line is that Ontario consumers will not pay less for their insurance; premiums are simply redistributed. New groups will be favoured over current groups. I suggest that the introduction of restrictions in the competitive marketplace as proposed in Bill 2 for Ontario will lead to significant chaos for consumers through the number of restrictions placed on insurers.

I have heard there are those who favour a Massachusetts-type plan. Simply, Massachusetts does not work. More than half of the drivers are in the residual or substandard market, meaning that the company responsible services them only because it is forced to. The current rate structure is so inadequate that the rates are no longer set by the commissioner but by the courts. Massachusetts is a classic example of trying to repeal the laws of economics. With all of this, it is my understanding that the average Massachusetts premium level is second only to that of New Jersey.

In his remarks of April 23, 1987, the Honourable Monte Kwinter made the comment, "Industry practices indicate that rates are being set on an arbitrary basis, regardless of the hard statistical data." Allstate bases all of its rates on hard statistical data and would welcome the opportunity to file its rates for approval with a rate review board.

I believe Ontario motorists are best served by a rate review board and not a rate-setting board, as proposed in Bill 2. A rate review board protects the consumer from any imposition of excessive rates, on the one hand, while protecting the same consumers, government and business from the ravages of insolvency, on the other. It has been our company's experience in Alberta, New Brunswick and numerous US states that a rate review process is far superior to all interests over that of any rate-setting jurisdictions.

I believe Alberta is an excellent model for a free market environment. It operates in a truly competitive manner. Companies, including our own, offer differing and unique pricing features including make and model rating, a multicar discount, retired adult discounts and driver training discounts, to name a few, all this with a rate review board.

To our knowledge, the rate review boards in Alberta and New Brunswick have not been swamped with individual company filings because most companies will voluntarily deviate from Insurers' Advisory Organization rates or nonmandatory benchmark rates proposed by the board for purely competitive reasons.

In summary, Allstate believes that thorough consideration of the provisions of Bill 2 should not be completed until the impact of the Osborne inquiry and the Waddams study can be assessed.

Allstate believes that individual class plans should be maintained so that our customers can benefit from the innovations of competition.

Allstate believes that a rate review board, and not a rate-setting board, is in the best long-term interests of consumers, government and industry alike.

Allstate believes that automobile make and model characteristics are significant factors in risk analysis and rate categorization and deserve far more consideration than studies to date have indicated.

Allstate believes that Bill 2 in itself does nothing to address the number one problem of escalating claim costs in Ontario and the resultant premium pressures that are being placed on the motoring public. Bill 2 will at best cause significant premium dislocation through redistribution.

Allstate is available and willing to continue to work with government to bring about meaningful and acceptable change for our customers.

Mr. Keyes: Thank you for the presentation, Mr. Groot. I have three small questions. One, we can always turn to the stats to prove our point. Have you had the benefit of looking at the Mercer study and what it considered to be the implications for the drivers of the province?

I would contend that, since you are in the insurance business, you are going to choose only those stats that basically substantiate the point you want to raise. If I read the figures right, you are suggesting about 41 per cent of the customers would get a 10 to 20 per cent reallocation of premiums. What about the other 59 per cent that certainly are potentially going to pay less? You do not make any reference to those.

Mr. Groot: Certainly, if only a certain percentage goes up, a certain percentage will stay the same and a certain percentage will go down. I think we would get a far more vocal reaction from our customers who have their premiums going up than we would hear from customers with premiums going down. I am concerned with the extreme dislocations and whether they are necessary or not.

Mr. Keyes: But you would have to admit you did use extreme dislocation factors. Have you read the Mercer study decision, the assessment of it?

Mr. Groot: Yes, I have.

Mr. Keyes: What is your comment with regard to its assessment of the impact of the rate changes? My reading of it, rather quickly here, is that it does not assess it to be as crucial or difficult to people as what you have placed in your four samples.

Mr. Groot: Yes. I think what Mercer was measuring primarily was, first, one industry standard plan against another industry standard plan where I was trying to measure Allstate's current plan against the proposed industry standard plan. I think that, because we do things differently to the industry now, we would tend to have more dislocations than the average insurer.

It is my opinion, after a very brief review of the Mercer study, that it understates the case. It lists as its primary example one with a 20 per cent off-balance factor. Our own evaluation produced an off-balance factor closer to five per cent. If you re-examine the Mercer study it will show there are greater dislocations at what it has calculated as a zero per cent off-balance factor.

Again, I question whether these are necessary since I am having trouble determining the need for a uniform class plan.

Mr. Keyes: You did mention some of the aspects of British Columbia that appealed to you. What about the bonus-malus system of BC where you start out and then have a percentage differential based on experience?

Mr. Groot: Again, I think it is somewhat similar to a uniform class plan to put things in that type of straitjacket which fails to recognize the many different variables that can affect risk assessment. Bonus-malus works, but I do not think it is the most efficient plan available. I think there are other ways to evaluate loss likelihood in determining what the risks presented are.

Mr. Keyes: I have one final question. What is the policy of the company on forgiveness of accidents and the termination of premiums?

Mr. Groot: We do not have what is commonly known in the industry as an accident-forgiveness feature. In order to avoid some complaints with our policyholders we tend to--we do not tend to; it is in our manual--we do overlook claims that amount to less than \$400 in determining whether it was a chargeable claim or not. We have no particular accident-forgiveness feature.

Mr. Cureatz: I have a number of questions, but with the time limitation I will narrow them down to three that are of interest to me. The first is a follow-up with Mr. Keyes. Turning to page 8, giving the two examples of present-day premium rates and what the proposed rates would be under the board, they do seem to me excessively high. You indicated that these are figures within your own company as opposed to what the Mercer report possibly has done.

That being the case, under the circumstances, would you try to correct the excessive percentage increases, or would you suggest to your policy holders that, because of the legislation, we have to have an alteration spreading the premiums and, as a result, you will now have to pay an increase of 47 per cent or 50 per cent? Have you thought about how you are going to approach that? I think you are going to have to think about it since the legislation--

Mr. Groot: If we are not given any choice as to what we charge the insureds, there is not much we can say other than that the government has said, "Here is what we have to charge."

Mr. Cureatz: All right. Then you are losing money--

Mr. Keyes: In the last two years, \$60 million or something, so there has to be changes somewhere.

Mr. Cureatz: What is the approach? What are you going to do in that case if the board says how much you can increase it. You are saying, "We are losing money anyway, and now we are going to pass it on to other policy holders and property."

Mr. Groot: No, I sure would not want to do that. In fact, I think that might even be illegal. But we are continuing to take a look throughout our organization to make sure we are operating as efficiently as possible. We have recently taken actions to open up newer and smaller claims offices. We think those might be more efficient, might more directly respond to some of the claim activity, help make sure we get to things right away and keep the costs as low as possible.

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We would like to continue to write more business to help spread some of the fixed costs across a broader base, but what we are seeing are the rapidly escalating costs, particularly in the bodily injury coverage. As long as that keeps costing more and we keep paying out more dollars in benefits, unfortunately we are faced with continued increases of premiums in that area.

Mr. Cureatz: Have you thought about approaching the various ministries responsible for those areas--I guess one would be the Ministry of the Attorney General--about tort reform?

Mr. Groot: We have participated in the various studies that have been done and have given our views in that regard.

Mr. Cureatz: I am interested in the examples. I have run across this a few times in the number of years that I have been a member, where an individual has a small company and he is able to insure his vehicles through his various associations, but he may have, for instance, an antique vehicle, which the overall association does not make provision for. If he approaches a local broker, the broker has difficulty providing insurance because the insurance companies say--and I do not mean to say this specifically for your company; it is just a general statement and I am wondering what your response would be--"If we cannot have the coverage for all the vehicles, we are not going to put it on that vehicle." Is that the approach? Is it fair? How would an insurance company evaluate that situation?

Mr. Groot: I would hate to speak for the whole industry, but generally that is a specialty type of line, typically written as an accommodation for the customer by the company. I am not aware of one; maybe there is a company that specializes in that type of insurance.

There certainly is no underlying long-term relationship with that customer. If the risks presented are not of so exotic a hazard as to be uninsurable, our company would consider it. I cannot say whether or not it would be accepted. But where there is no relationship with the insured, there does not seem to be an overriding concern for taking an extreme position on a piece of business.

Mr. Cureatz: I guess I should have pursued this more with the various associations that appeared before the committee. It would appear that

the inclination is, "If we cannot insure everything, we are not going to take anything." But you feel uncomfortable with that. You feel, all things considered, that if possible, it would be insured.

Mr. Groot: Certainly. There are no rules in our company against that.

Mr. Cureatz: Back on page 6 at the bottom: "We believe that there is no support and no need for a uniform class plan. There is no overall savings to the system or the insureds. Insureds should benefit from the innovations that free market has and can bring." How does that resolve those who are under 25, whom I guess a good amount of the legislation is focusing on? I suppose they are being evaluated, because of the statistical data, as being high risk. How do you sort out those individuals in that category who have not been of a nature that is high risk, if you follow my line of thought?

Mr. Groot: I saw two different questions in there. If you are asking how we determine among a group, let us take a group of young, single males, which everybody considers a higher-risk group.

Mr. Chairman: I suppose if you happen to be under 25, male and single, you would not concur with that.

Mr. Groot: You ask, "How do you distinguish among them?" The statistical studies have shown that it is very difficult indeed to distinguish between them. Their accident record is not as meaningful. Their record of violations is not as meaningful. Drivers in that category who have no prior incidents tend to be more like drivers who do have incidents than would be the similar situation with adults when you compare those who have driving record points versus those who do not have driving record points. There are other factors at play. We are not saying any of this is causal. We are not saying there is something in being a male that causes you to be a greater risk.

Mr. Cureatz: I understand.

Mr. Groot: But it certainly turns out that that group does tend to have higher risk.

Mr. Cureatz: The point is then you cannot flesh out those who should not be found guilty until they are proven guilty.

Mr. Groot: We are not in the business of penalties or guilt or anything. We are trying to determine what is the appropriate premium charge for the risk presented. In the young males, it is very difficult to distinguish, but we cannot in any sense predict whether any one person, whether he be adult or a young female, is going to have an accident or not. What we say is, with these characteristics, we could determine what the likelihood of an accident might be and base our premium on that.

You led into that by saying that we believe there is no support and no need for a uniform class plan. We think it would be possible to do away with age, sex and marital status, if that were the desire of the public in general, without imposing a uniform class plan.

Mr. Swart: Two very brief questions. What is your cost, your expenses associated with claims settlement, expressed as a percentage of premiums? Do you have that?

Mr. Groot: Like many simple questions, the answer is not quite that simple. On the one hand, I could go to our expense reports and it would say there that our expenses related to premium run in the area of 31 per cent.

Mr. Swart: No, no. I was just asking about claims, your expenses--

Mr. Groot: Oh. About eight per cent.

Mr. Swart: That is total, is it?

Mr. Groot: Yes.

Mr. Swart: That is all your costs in settling claims, about eight per cent.

Mr. Groot: Yes.

Mr. Swart: That was the question I asked, not the more comprehensive one.

Mr. Groot: No. OK.

Mr. Swart: The other question I wanted to ask is simply this. You alluded to the Alberta plan. You are aware, I am sure, that Mr. Kwinter, who was the minister at the time in 1986, said, and I quote from Hansard, "If that plan were in effect in Ontario during the past five years, the people of Ontario would have paid from eight per cent to 39 per cent more than they pay now."

Do you agree with that statement? Do you conceive how that possibly could be true?

Mr. Groot: I guess it is possible to conceive how that could be true. I do not know for a fact that it would be true, in particular the effect on my company's insureds. In that period, we--

Mr. Swart: That is all.

Mr. Groot: OK.

Mr. Sola: On page 10 of your brief, you make two statements that I find quite interesting. It says, "The current rate structure is so inadequate"--in Massachusetts--"that the rates are no longer set by the commissioner but by the courts."

What do you mean by that? Who takes them to court?

Mr. Groot: The companies have taken the commissioner to court over the years, finding some of his decisions with respect to rate levels inappropriate or whatever. In the most recent case, the courts directed the commissioner to make his decisions based on the facts instead of by ignoring the facts and remanded his decisions back to him for new findings based on the facts. The last three rate decisions in Massachusetts have all gone immediately to court, and the two that have gone to decision have been remanded back to him.

Mr. Sola: Then you state that the Massachusetts average is second only to that of New Jersey.

Mr. Groot: Yes.

Mr. Sola: Is that of all the insureds or just those insured by the insurance company? Would that be the Facility Association as well?

Mr. Groot: Yes. There is only one premium level in Massachusetts. Whether you are insured by the company directly or by the Facility through the company, the premium does not differ.

Mr. Runciman: This is the only witness who has commented at some length about the Massachusetts situation. I guess I would appreciate receiving more information on that, because there are some indications that what is being proposed through Bill 2 is somewhat comparable to the Massachusetts situation. If your company has any additional information with respect to that state plan and the experience over the past number of years and how it may relate to the bill before us, if you can get that to us, personally I would very much appreciate it.

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Mr. Groot: I would be happy to do so.

Mr. Chairman: You could arrange to forward that through the clerk. That can be made available to all members of the committee.

Mr. Runciman: Does your company operate in Massachusetts?

Mr. Groot: Yes, we do.

Mr. Runciman: There was a witness before us who said a lot of the insurance companies had pulled out of Massachusetts.

Mr. Groot: There are some that have; some that chose never to operate there; those that operate at different levels there than they do throughout the rest of the US.

Mr. Runciman: How are you doing in the auto insurance end of it? Are you making money?

Mr. Groot: In Massachusetts? No. We have sustained serious losses. We have corporately evaluated what our position should be, whether we can afford to continue to sustain those losses in Massachusetts.

Mr. Runciman: It is under assessment. OK. Thanks very much.

Mr. Chairman: Just a question, if I might ask. Are you familiar with the Charter of Rights here in Canada?

Mr. Groot: Not extensively.

Mr. Chairman: Specifically section 15(1) of the charter and section 1 of the charter. Section 15(1) is an equality provision that provides no discrimination on the basis of certain criteria.

Mr. Groot: OK.

Mr. Chairman: Section 1 says that in a free and democratic society there can be--I am paraphrasing--examples of where that might be allowed where the facts demonstrate that to be the case.

You have heard what the human rights commissioner stated earlier, that a federal court has already said you cannot stereotype people, that you have to show that there is some relationship between that stereotyping. Recognizing that and the factor the commissioner seemed to indicate, that eventually, if this were not done by policy of the government, it would be done by the courts for us, does that have any bearing on your concern about the question of the elimination of those factors?

Mr. Groot: Our question of the elimination of age, gender and marital status is really directed more towards the dislocation that would be provided and more towards the ability to adequately deal with the risk and what would happen in the marketplace when risks are intentionally underpriced and others are by decree overpriced. We have no particular stand one way or another about whether it is right or wrong, publicly, to use age, gender and marital status as rating factors.

Mr. Chairman: For instance, I could stereotype you, I suppose. You sound like you come from Boston.

Mr. Groot: Chicago.

Mr. Chairman: Chicago. OK. Does the US Constitution have a similar type of provision?

Mr. Groot: Yes, it does. The Civil Rights Act of 1964 prohibits discrimination. Most of the insurance acts prohibit unfair discrimination, and all but five or six states still permit rating by age, sex and marital status.

Mr. Chairman: Has that ever been challenged under the Constitution?

Mr. Groot: Yes, it has, but the provision has been held to be not unfair or unreasonable.

Mr. Chairman: In other words, it is similar to our federal court's statement that you cannot stereotype. You cannot just put them in a category as the stereotype as opposed to determining it on the facts of each case.

Mr. Groot: Yes.

Mr. Chairman: All right. Thank you very much for coming before us. We will take your information into consideration.

Mr. Groot: Thank you.

Mr. Chairman: The next group, Co-operators General Insurance Co. We have Bill Weafer, vice-president of financial services. Mr. Weafer, will you identify yourself for Hansard, please, if I have not already done it. You have a brief, which I understand is exhibit 39. Perhaps you would like to read through that and leave some time for questions by members of the committee. It seems to be a brief that could probably be done in about two minutes.

CO-OPERATORS GENERAL INSURANCE CO.

Mr. Weafer: We appreciate the opportunity to provide some input to the committee. We hope the committee will be appreciative, in view of the time of day, of the length of our brief.

The Co-operators General Insurance Co. is the leading home and auto insurer in Canada. We also write life, commercial and other lines of insurance. In Ontario, we insure over 500,000 cars, roughly one in every nine, through a network of service offices and sales representatives across the province. We employ some 2,300 people in Ontario.

We are Canadian. We are owned by 35 co-operative, credit union, farm and trade union organizations across Canada. Co-operatives are seen as a third sector, an alternative to traditional shareholder-oriented business and to big government. Our mission is to provide excellent service to our customers at a fair price. We operate in all provinces and territories except Quebec.

We are proud of our record of service for the past 40 years. In 1985, we received a Canada award for productivity. Our expense ratio, the portion of policyholder money we spend operating our business, is among the best in our industry.

Specific comments on Bill 2: We think a rate review board would help reassure consumers that premium levels are fair. We believe that the interests of consumers would best be served by a simpler form such as "file and use" or "prior approval." We work with such boards in Alberta and New Brunswick and believe they can contribute to a more stable market.

We are concerned about the establishment of such a board in the absence of dealing with the major cost issues, which we expect the Osborne report will do. Price is largely a symptom. The real problem is claims costs which continue to escalate.

We support a uniform approach to rate classification. It would provide consumers and others a reasonable basis of price comparison. We need to know the impact of the Osborne report before such a new system can be finalized.

We accept the government's position eliminating age, sex and marital status as auto-rating criteria as a political decision which we think the industry should help to implement in a speedy but orderly fashion.

Reform of the legal system remains to be addressed. So-called tort reforms have received broad support from consumer, industrial and legal groups and should be acted upon. The delay is costly and puzzling. No-fault should get serious, open discussion.

We have been working with the industry and government to address problems facing the insurance business in Ontario and we will continue to do so. We believe our company and many others have demonstrated a capacity and willingness to respond and make positive changes. The voluntary refunds, increased Insurance Bureau of Canada consumer line activity and the claims-tracking system are evidence of this.

We advocated and adhered to the industry's voluntary suspension of rate increases last year to provide breathing room to resolve problems. We believe substantial progress has been made.

Mr. Chairman: Mr. Runciman, I thought I had somebody before. Mr. Swart, did you raise your hand before?

Mr. Swart: Yes, I did.

Mr. Chairman: All right, Mr. Swart first and Mr. Runciman next.

Mr. Swart: We have met before, Mr. Weafer. Let me preface my comments by saying that I had felt that, traditionally, Co-operators has been an insurance company that has been a bit more humane and a bit more fair than the average. Having said that, I want to say this committee has a responsibility to look at alternatives to the system that we have in this province, one of those alternatives being public auto insurance.

As you are aware, the insurance industry generally, including yourself, mounted a massive campaign prior to the last election against public auto insurance. I want to say very bluntly that I accuse those who produced and sponsored the "pig" ads and the insurance industry leaflets--I am sure you saw them--of deliberately providing false information and massive distortion of the true situation in those western provinces.

To date, we have been unable to find anybody who would admit to producing those ads and producing that leaflet. The Insurance Brokers' Association of Ontario said, "No, we know nothing about them," even though they were put out under the independent insurance broker. Where we have questioned individual brokers in the same area, they gave us the same answer. You, I assume, were not part of either the "pig" ad campaign or--it is important that we get these things straight--the leaflet which was put out by the insurance industry. Am I right in saying that?

Mr. Weafer: We are a direct writer and, as such, we do not have those connections with brokers. No, we were not a part of either of those.

Mr. Swart: No, but you did do quite a campaign on your own, including advertising and letters which you sent out to many individuals, including your people. I would like to pass to you a series of those letters. I will give one to the other people here and one to you, Mr. Chairman, so that you can follow it without any difficulty because I want to ask some questions on this. Here is one to the opposition.

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In that letter, which is addressed to Mr. Erickson, whom I do not know--it came into my hands; we get a lot of them in our hands--on the first page of, not the letter but the page subsequent to the letter, in the second paragraph, you say you are "owned by 35 co-operative, credit union, farm and consumer organizations across Canada. Co-operatives are seen as a third sector,"--I agree with that so far--"a user-controlled alternative to traditional shareholder-oriented business and to government intervention. In line with co-operative principles, we give policyholders a say in the affairs of the company, providing mechanisms for sharing of information and feeding back comments and suggestions."

May I ask you this straight question? Your organization is not a true co-operative, is it? In a true co-operative, as I understand the word, the people who have the policies with it have a say and decide on the running of the organization.

Mr. Weafer: Co-operators General Insurance is wholly owned by the Co-operators Group Ltd., which is incorporated under the co-operative act of Canada. So we are a co-operative.

Mr. Swart: But you are not a co-operative in the sense of a credit union, where the membership decides the policies. In other words, your policyholders do not decide the policies in your organization.

Mr. Weafer: Policyholders are represented through some 35 affiliated organizations such as the Ontario Federation of Agriculture and the United Co-operatives of Ontario, which represent the interests of the policyholders.

Mr. Swart: But they are not direct. The policyholders do not directly control the organization.

Mr. Weafer: Not directly, no.

Mr. Swart: No. It is not a true co-operative. You talked to me about this on one occasion. I think you agreed with it at that time. In fact, as a policyholder, I do not have any direct access to any of the policies which your organization makes. I may be able to write to you and that sort of thing and make suggestions, but I do not have a vote.

Mr. Weafer: You have the opportunity to come to regular annual local meetings, where we report on our activities and invite input. You have the right and opportunity to go to our annual meeting, where you can get up and raise any question.

Mr. Swart: I do not have the right of a vote.

Mr. Weafer: You have no vote; that is correct.

Mr. Swart: No vote; I do not have any control.

I want to take you then to the next page under the heading of "Proposals for Change in the Tort System," where you say, "We have endorsed reform of the following areas...." We agreed with many of these reforms, but you say at the bottom: "If these measures had been introduced in 1985, the total claims incurred by insureds for bodily injury claims on private passenger vehicles would have been reduced by \$250 million."

Was there a study done to determine that amount? Where did those figures come from?

Mr. Weafer: That figure came from an Insurance Bureau of Canada estimate.

Mr. Swart: Could you produce this? Being as you used it in your publication and did not give any reference from IBC, can you produce then for us--it is your statement, not theirs--the study on which that was based?

Mr. Weafer: I can provide you the source that information came from, yes.

Mr. Swart: Could you provide us with the study? I do not just want from IBC a statement saying "\$250 million," the same statement you have made.

Mr. Weafer: To be frank, at this point I do not know whether we have the study or the report on the study. I am quite willing to provide whatever we have.

Mr. Swart: Will you go so far as to endeavour to get it from IBC, if all you had was a letter? It seems to me we have a right to know if that amount of money is going to be saved.

Mr. Weafer: I think I can take responsibility for what we said and the information we had. If it is an IBC report and we do not have it, I think we need to deal with IBC on that.

Mr. Swart: Fine. I will be looking for that.

Next, under "Independent Appeal System," both in this letter and in the full-page ads which you had in the newspapers--and I have the one here from the Globe and Mail, Saturday, March 7, 1987--you said you would establish an independent appeal system. Have you established that appeal system, 10 months after that ad was in the paper?

Mr. Weafer: We have done the staff work preparatory to implementing both of those things. Until we know what regime we are going to be operating under in Ontario, we do not think we can implement them.

Mr. Swart: Are you saying to me that 10 months--more than 10 months now--after making that statement, you do not have anything passed through the board of directors and an independent appeal system has not yet been acted on?

Mr. Weafer: The board of directors has approved our moving on both of these items. What we are waiting for now is to know what sort of automobile insurance system we will be operating under.

Mr. Swart: I suggest to you that when you give a commitment like that and 10 months afterwards it is not implemented, it cannot be a very serious commitment.

Mr. Chairman: Mr. Swart, I think that is a bit unfair. As I said before, these witnesses come before us voluntarily, and the answer that was given was that it was on hold to find out what type of direction the government was going to go in. I am sure you are a very fair man and you would not--

Mr. Swart: I have had numerous people who have come to me and said, "I have had injustices from the Co-operators, from my insurance company." I asked who it is. They said, "I have tried to get an appeal, as they promised last spring. I got a letter from them saying there was going to be an appeal process." Those people think it is an awful injustice that it has never carried out a promise that was given 10 months ago. I do not detract from what I have said.

Mr. Chairman: Maybe you would like to let the witness comment, Mr. Swart.

Mr. Swart: Sure.

Mr. Weafer: I want to make it clear that it is not as though we do not have mechanisms now. We have an internal claim-solving or problem-solving hotline. We have a staff member who works full time on trying to assist people who are unhappy with some claim-handling or other matter. I think we are very deeply committed to both of these things but, frankly, we have been left very much up in the air in terms of the regime we are going to operate under. The government has announced that it will have some sort of ombudsman under the changes. Until we know what that is, it is unclear to us just how to proceed.

Mr. Swart: In the interests of time, may I turn to the next page, which is "Government Insurance," and refer you to D and E. This is in your attack on public auto insurance. I will just read two or three sentences: "The rates charged do not have to relate to the costs that various groups bring to the system but can be determined to meet political considerations." I want specifically to point out: "Losses are made up by taxpayers."

Then may I take you down to E in that: "The Manitoba government plan, which insures 600,000 drivers, lost \$10 million last year. A similar experience under a government plan in Ontario, with its six million drivers, would result in a \$100-million loss--to be borne by all taxpayers."

You must be aware, are you not, that there was no money put into that plan by the taxpayers?

Mr. Weafer: The Manitoba plan in the past has been subsidized by taxpayers.

Mr. Swart: I want to take you exactly to your statement here today, where you say that if that had been Ontario, the money would have been made up by the taxpayers and would result in a \$100-million loss to be borne by all taxpayers.

Mr. Weafer: Yes. I think as we have seen in terms of what has happened to MPIC, if the government, under a government plan, will not charge adequate rates, it has to come from the taxpayers.

Mr. Swart: Have you never bothered looking at the annual report of the Manitoba auto insurance plan?

Mr. Weafer: Yes.

Mr. Swart: I put in front of you there copies of statement one. It is in the back of what has been given to you. The last two pages I am referring to.

In the 1986 operations, to which you are referring, you will note at the bottom of the page that they did not lose \$10 million; when the full figures come out, they lost \$18 million--about one 30th, of course, of what the Ontario insurance companies claim they lost. But would you agree on the bottom that they lost \$18 million?

Mr. Weafer: My understanding is that it is currently under debate in Manitoba as to just how much they did lose.

Mr. Swart: I am talking now about 1986, not 1987. You were referring to 1986.

Mr. Weafer: Yes. My understanding is that their losses for 1985, 1986 and 1987 are a matter of some controversy.

Mr. Swart: I think you must know that the only controversy in that is with regard to the general insurance division. There is no controversy with regard to the auto insurance division. We are going to have people here from Manitoba and from British Columbia.

Will you now turn to statement 4. Do you have that?

Mr. Weafer: Yes.

Mr. Swart: Under 1986, statement of retained earnings deficit, the year ending October 31, 1986, automobile insurance division, you will note the net loss for the year was over \$18 million, close to \$19 million. You will notice the transfer that was made was from reserve for contingencies and the transfer from reserves for rate stabilization, which was made of \$5 million plus for contingencies, and rate stabilization was \$13 million, to make up the loss.

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Then we have appropriated retained earnings, reserved for catastrophies, reserved for contingencies and reserved for rate stabilization, which amounts to a total of \$52,000,496 which they had in reserve, apart from the reserves for unpaid claims. Total retained earnings: \$52,000,496. That is under automobile insurance. Would you now say that for the people of Saskatchewan, all taxpayers, as you have said here, the result is "a \$100 million loss to be borne by all taxpayers," or would you say it was taken out of reserves and the taxpayers did not have to pay anything?

Mr. Weafer: Sir, are you dealing with Saskatchewan or Manitoba?

Mr. Swart: Manitoba, sorry. Did I say Saskatchewan?

Mr. Weafer: I am not familiar with the Manitoba Public Insurance Corporation financial statement, but my understanding from the press in Winnipeg is there is a dispute whether the politicians have the information, whether the minister is in difficulty. There is a lot of controversy. I do not think I can comment on that.

Mr. Swart: By this financial statement, which is audited, would you agree that the money did not come out of taxpayers, that it came out of reserves?

Mr. Weafer: From what I understand of the situation in the MPIC, I think the financial statement is under dispute, so I do not think I can comment on that, Mr. Swart.

Mr. Swart: You will not say that by this financial statement? We will hear from them here towards the end of next week. I suggest to you that was a total distortion, a false statement, totally false that the taxpayers made up that money. I submit to you that is true. You are telling me it is not, that what you said is accurate.

Mr. Weafer: Yes, I would submit to you that the substantial dramatic rate increases in Manitoba are representative that the government is not going to take it out of the taxpayers, but now, retroactively, go back and take it from the drivers. There are only two places it can come from.

Mr. Swart: That is not what I am asking you. I am asking you, are you submitting to me that this statement, which you made and sent out to your insureds, is correct? "A similar experience under a government plan in Ontario, with its six million drivers, will result in a \$100 million loss to be borne by all taxpayers." Are you still saying that statement is correct?

Mr. Weafer: I would like to clarify something you said. This information was sent out to people who wrote in asking for information. It was not sent out on a broad-scale basis. When we took out our ad in February, we

invited people to write in if they were interested. Something in excess of 8,000 people did that, and this is the information we provided to them on request. I would stand by the statement that if an Ontario government plan was operated under experience similar to what Manitoba was having, the Ontario taxpayers would have had a loss of \$100 million.

Mr. Swart: That is not what you said. You said that the taxpayers would have had to make it up--borne by all taxpayers. I am asking you if you stand by that statement which you made there.

Mr. Weafer: Yes.

Mr. Swart: Fine, let us go over to the next page.

Mr. Cureatz: Mr. Chairman, I hate to interrupt, but on a point of order. As much as I respect my New Democratic Party colleague, with whom I have gotten along marvellously well over the years, I would only like to point out that it is quarter after four. We do have another submission to be made. I know Mr. Swart would very well like to go clause by clause of whatever the document he has before him. I think he has adequately made his point in terms of his dislike of what has happened in the past in regard to whatever the situation is.

Mr. Chairman: I do not want to interrupt you, Mr. Cureatz.

Mr. Cureatz: Well, let us get on with it, Mr. Chairman. Do your job, call Mr. Swart to order and tell him that is it and we have to get on with the next witness.

Mr. Chairman: I do not consider that as a point of order. I think Mr. Swart has the opportunity. Go ahead, Mr. Swart.

Mr. Swart: I want to take you now to C on the next page. My C, where you talk about no-fault.

Mr. Weafer: Which page are you on now?

Mr. Swart: There are no numbers to these pages. It is headed "No-fault." You talk about three western provinces, if I can take you down. I think I have it marked down there. "Three provinces--Manitoba, Saskatchewan and British Columbia--have government insurance monopolies. However, they all permit lawsuits for personal injuries." Then you make this statement. "These plans are not no-fault to any greater extent than Ontario. They operate under the same system of laws as does Ontario. All acts are subject to tort law. Injured persons there have access to no-fault benefits, but in no case"--I emphasize these words--"in no case are the no-fault benefits greater than the accident benefits available to Ontario motorists under this section of their policy."

Can I read to you the statement made by David Garriock to this committee, a man who is a past-president of the Insurance Brokers Association of Manitoba?

Mr. Chairman: Just a second. Perhaps we could find out whether you stand by that statement.

Mr. Weafer: Yes.

Mr. Chairman: All right. Do you know Mr. Garriock?

Mr. Weafer: No.

Mr. Chairman: Would you have any idea what Mr. Garriock was saying? Mr. Swart, I do not see that will get us anywhere, by reading to him from somebody else's statement.

Mr. Swart: I think it would when you have a broker who comes from Manitoba, who is an immediate past-president and makes these extremely contradictory statements.

Mr. Chairman: I think that is before us. We have heard from Mr. Garriock, but this gentleman here has indicated, as a witness, that he stands by his statement.

Mr. Swart: Let me take you then to your own next page, automobile insurance. Granted, you have said on the previous page that "in no case are no-fault benefits greater than the accident benefits available to Ontario motorists under this section of their policy."

You yourself sent out a comparison of those. Would you agree that if we looked at the disability income benefits--"80 per cent of wages in Ontario, maximum of \$140 weekly; Manitoba, \$150 per week; 70 per cent of wages to a maximum of \$300 weekly"--would you not agree that \$300 is more than \$140?

Mr. Weafer: I think you have to look at the total benefits payable on a claim, rather than a clause by clause--

Mr. Swart: You said "in no case." Would you say, in this case of accident benefits, of disability benefits, they are not greater?

Mr. Weafer: No, you are not talking here about a case. You are talking about a clause. A case has to do with an accident and what is payable.

Mr. Chairman: I think, Mr. Swart, we did have an agreement at the outset. I think you have made your point.

Mr. Swart: One other question, under the homemaker lifetime total, \$150 weekly; under the housekeeper in Ontario, \$70 per week. Would you not say those are greater?

Mr. Weafer: What we said in the statement and what I stand by is, on a case line, what is payable out on a claim, rather than a clause-by-clause approach.

Mr. Swart: I suggest to you that this statement which you sent out is almost as misleading as that done by the insurance industry generally. They should be ashamed of it. You should send the true facts back to these people.

Mr. Garriock was here. He said the no-fault accident benefits in Manitoba are the best in Canada, bar none. Then he went on to compare them with Ontario. And he was opposed to the Manitoba system, basically and philosophically.

Mr. Weafer: Mr. Chairman, may I respond to that?

Mr. Chairman: I think you should, because I think, in fairness, I do not think it is fair to leave it hanging like that.

Mr. Weafer: We began a campaign in February--

Mr. Chairman: Very quickly, if you do not mind.

Mr. Weafer: All right. I do not think we should be or, in fact, are ashamed. I think we are proud of trying to speak out for our industry and for our organization to give people accurate information. I think we have not been in the situation that the New Democratic Party has frequently, of giving factually false information.

Mr. Chairman: I do not think we will prolong this, Mr. Swart. We do have an agreement to allow all parties to have an opportunity--

Mr. Swart: I think I made my points. I got three times that many inaccuracies, but I think I made my points.

Mr. Runciman: I have a couple of quick questions. What has your experience been in the auto side of the business the last few years? Virtually every company that has come before us has indicated it has suffered significant losses. How has your company done?

Mr. Weafer: The worst year that we have had in our history was 1985, 1986 represented some improvement, 1987 will be a positive year. At the end of the third quarter of 1987, we had a total combined ratio of 105, so we expect to be in a profit position for 1987.

Mr. Runciman: Why is that?

Mr. Weafer: I should point out that we moved on rate increases earlier than most other companies, so that we had a greater benefit of rate increases in 1987 than some of the others.

Mr. Runciman: When did you increase your rates?

Mr. Weafer: The last rate increase we made was effective, I believe, the first part of January 1987.

Mr. Runciman: January 1987, that is the 4.5 per cent you are taking about.

Mr. Weafer: No, that would be 1986.

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Mr. Runciman: OK. What was your increase at the time?

Mr. Weafer: We began increasing rates in the summer of 1986. As our 1985 disastrous experience became clear, we made increases mid-year, increases in September, another one in December and the final one of that round was made in January.

Mr. Runciman: So you are on a profitable basis right now.

Mr. Weafer: Correct.

Mr. Runciman: Your projections are for this year?

Mr. Weafer: For calendar 1987; 1987 will not offset 1985 losses, but 1987 is a good year.

Mr. Runciman: I appreciate that. What kind of reaction have you been getting from your policyholders in respect to the increases you have instituted?

Mr. Weafer: We have had no increases for about a year now. The last rate increase we implemented was effective on January 1, 1987, renewals.

Mr. Runciman: That is what you have attributed your profitability to?

Mr. Weafer: In part, yes.

I want to make the distinction between our results and other companies' results. If we moved earlier on rates, our situation would turn around more quickly than theirs, and that is why you may get a conflict between what you are hearing when different companies talk about their 1987 results.

Mr. Runciman: So you have not taken advantage, if you will, of the minister's allowance of a 4.5 per cent increase?

Mr. Weafer: Yes, we will be implementing the four and a half.

Mr. Runciman: You have not had any negative feedback? You have not had any significant loss of policyholders because of your move to increase rates to a point where you are profitable?

Mr. Weafer: In 1987, our retention rate, which measures the rate at which people renew, improved substantially over 1986.

Mr. Runciman: That is interesting. You have, what did you say, 500,000 cars?

Mr. Weafer: Yes.

Mr. Runciman: Have you any idea how many of those would fall into the category of the under-25 males?

Mr. Weafer: I believe in the range of eight to 10 per cent.

Mr. Runciman: I am sort of surprised to see your comment on Bill 2, that you support a uniform approach to rate classification. Yours is the only insurance company before us which has indicated that. All of the testimony--in fact, including the Mercer report--indicates that there are going to be some problems in respect to some of the better drivers suffering some rather substantial increases.

You apparently do not have any concerns in respect to your policyholders in that regard. The people who are going to benefit are the eight to 10 per cent, essentially, that you have talked about. The vast majority of your policyholders are not going to reap any real rewards.

Mr. Weafer: I would separate the question of age, sex and marital status from the standard classification system. You can eliminate age, sex and

marital status as rating factors without going to standard classification and we support that elimination.

On standard classification, what we believe you do is provide our policyholders and other consumers with a reasonable basis of comparing rates. We think that is to the consumer's advantage. The specific system you implement might be or might not be to their advantage. We are saying that as a concept, we support a standard grading approach. We would need to see, under whatever Osborne comes in with, a specific approach before we could comment on the impact it would have on our policyholders.

Mr. Runciman: Your position here, obviously to me anyway, was somewhat misleading in the sense that we had Allstate and all of the other companies here expressing great concern about the uniform concept and not having the flexibility in terms of a whole host of things.

Mr. Weafer: Why do you see it as misleading?

Mr. Runciman: Simply because you say you support a uniform rate classification system.

Mr. Weafer: We do.

Mr. Runciman: That, in essence, is a Bill 2 approach.

Mr. Weafer: Yes.

Mr. Runciman: I am saying that is significantly different from any other insurance companies that appeared before us.

Mr. Weafer: I do not see that as misleading, though.

Mr. Runciman: I have to wonder how your policyholders would feel about it.

Mr. Weafer: Let me comment to you on where we are coming from. In the introduction, we say our mission is to provide excellent service at a fair price. We think that to obtain fair pricing, stable pricing in Ontario, one of the things that is needed is the same basis of comparing rates. Without standard classification, we do not believe that is possible.

So we believe that, as a concept, that basis of establishing rates would be to everybody's advantage. When you get down to a specific classification system, we would hope to have the opportunity to comment on and influence it in the context of how it might affect our customers. So we support the concept. We do yet know what the specific plan might be.

Mr. Runciman: OK. I guess we are really arguing over definitions here of what uniform class plan means and what it might include. I guess the Allstate submission is that "in our opinion a uniform plan will produce unnecessary hardship to customers and severe dislocation..." Virtually everything that has been said to us has supported that. Mercer has indicated that it will perhaps not be as severe as some have suggested, but certainly there will be dislocation.

I guess you are not totally supporting what the government has proposed. You are saying, "Let's wait and see what they come down with in terms of the

final classification proposals," before you pass judgement, but I am a little concerned about the impression you leave by that comment.

Mr. Weafer: Let me try to clarify it then. What we said is, "We support a uniform approach to rate classification." That is in our brief. "It would provide consumers and others a reasonable basis of price comparison. We need to know the impact of the Osborne report before a new system can be finalized." We think consumers would be better served by the concept of standard classification so they can compare prices. When we deal with the specific approach that will deal with the impact on people, we would want to influence that.

Mr. Runciman: Right. That is fair. Thank you.

Mr. Chairman: Thank you very much. We appreciate your input and we will consider it along with all the other briefs.

The next group is the Independent Cab Owners' Association, exhibit 40, John Rotenberg.

Please have a seat, Mr. Rotenberg, and identify yourself for purposes of the record. You have a very brief brief and we will have, hopefully, very brief questions, so we can all leave here briefly.

INDEPENDENT CAB OWNERS' CO-OPERATIVE INC.

Mr. Rotenberg: All right. Mr. Chairman, members of the committee, ladies and gentlemen, my name is John Rotenberg. I am the president of the Independent Cab Owners' Association. We are the oldest independent cab owners' co-operative in Canada. We have been in existence for over 50 years.

I am here today on behalf of the Independent Cab Owners' Co-Operative Inc., to prove with a proper risk management program that private insurance can insure the taxi industry at a reasonable rate.

We have been insured by the Co-Operators General Insurance Co. for 11 years. In that period of time, increases have been negligible. In 1984, our premiums were lowered by 10 per cent. In 1985 and 1986, our premiums remained the same. In 1987, we were charged an increase of five per cent, due to inflation.

We feel government-run insurance would be detrimental not only to the taxi industry but also to the public in general. We believe people should be held responsible for their own actions. Good drivers should not have to pay for the carelessness or stupidity of others.

When I served on the insurance committee for the Metropolitan Licensing Commission, MPP Mel Swart stated that taxis in Vancouver were paying \$4,560 per year, but not a word about the public subsidizing the premiums.

Unfortunately, some cab drivers with a good driving record have fallen through the cracks. The insurance industry has the responsibility to ensure that good driving records pay appropriate premiums. Drivers I know paying \$8,000 to \$15,000 per year are paying the proper premium because of their driving records, and some of these drivers have been driving taxis for many years.

We try to instill in our members attitude and patience. Our situation is different from the fleet operators. The co-operation of the Metropolitan Licensing Commission, the insurance companies and the taxi industry with a risk management program would undoubtedly help lower premium rates and ensure the public a safer ride.

I am a firm believer in the incentive offered by good driving records. We have proved over many years that good driving pays off. There no doubt in my mind that as accidents decrease, so will the premiums.

Mr. Keyes: Thank you very much, Mr. Rotenberg. It is great to hear the support that you have among yourselves for risk management, as you call it. I do not know whether you have any formal programs of risk management, but certainly you have emulated the good driving attitudes, habits, consideration for others, etc., that is in here.

Can you tell me the size of your co-operative?

Mr. Rotenberg: We have 546 members. Our risk management program is the most stringent in the industry, but you must understand that we are able to implement this program through our board of directors, which consists of eight members. We have some very strict rules and unless these rules are abided by, members can no longer be a part of our insurance group. We police our group.

Co-operators does not police it. They have certain standards they have to go by. In order for these members to be a part of our group, they have to abide by our rules, which are specifically ours. Nobody else drives the car under any circumstances, no wives, no brothers, no uncles. There is only one driver on that car and that is the person who owns and drives the car.

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Mr. Keyes: One driver, one car.

Mr. Rotenberg: That is it. Nobody else, at any time, ever drives that car.

We also tell our members on the road that if they see anyone going through lights or driving too quickly, going through stop signs or doing things they should not be doing, they are reported to our grievance committee, and we talk to these people. Interesting enough, of the several people we have talked to, we have never had to talk to anybody twice in all 11 years. We have never had to say to anybody twice, "Slow down" or "Take it easy," because they stop doing it. They are made aware.

Our risk management program has been so effective because we police it. A good part of the industry now that I know of is also taking part in a risk management program that is quite similar to ours. We pull abstracts twice a year; every six months we have a new abstract. Before the renewal date, we pull all the abstracts, not the insurance company, because we decide who we want and who we do not want.

We will not allow any one member to put the rest of the group at risk because of his carelessness or greed. That is what it is basically, greed. We will not allow anyone to jeopardize our group. We are seeking to make sure that Co-operators makes money. That is our big aim. As long as they are making money, we are happy.

Mr. Keyes: So it is really controlled. You would have the right, I presume, to have one of the members appear before your board of directors and you could excommunicate him, in essence.

Mr. Rotenberg: As a matter of fact we have. We have done it on several occasions. One time, unfortunately, we had to move a person who was paying \$1,288 up to \$14,400 because he had three accidents, which were all his fault. He accumulated eight points. Out of our whole group, we have 70 per cent of our members with absolutely clean abstracts, not a line, not a loss of a point and not an accident in the past three years. That is over 70 per cent.

We have 17 per cent who have one line and also no accidents or no points. One line is one speeding infraction, 55 kilometres in a 40-kilometre zone. That takes care of 87 per cent. The remaining 13 per cent are watched very closely, and they have to give us abstracts every two months to see that their record stays clean. We require abstracts from them every two months, and if their record gets worse, they do not belong in our group.

In order to justify this, let me tell you what our premiums are. We are paying \$1,012 a year, \$506 every six months. We are paying \$644 every six months, including collision. That is \$1,288 for a car that is spending an average of 60 hours a week on the road. It is very special and a great deal of care has gone into it.

Mr. Keyes: You are certainly to be commended, Mr. Rotenberg. I really believe it is a tribute to the industry that uses the type of risk management you have done. It does attest to the capacity that the industry does have if it wishes to really police itself and have a good record and therefore be responsible for lowering its own rates to a large extent.

Mr. Rotenberg: I think that is the key. Contrary to public belief--and I think you have heard us referred to as "swashbucklers and pirates"--such is not the case. You may rest assured we have some very responsible people who have been in this industry--I have been a taxi driver for 42 years.

Mr. Keyes: That terminology of 42 years has a familiar ring to it.

Mr. Rotenberg: We are very responsible people in this industry and we have a great many people who have been in it many years. Denigrating our reputation does not do anybody any good.

Mr. Farman: My question is of a much more general nature. I suspect this bill is coming before us because there is a perception in the community that there is something wrong with the state of insurance for the general public. In bringing forward this bill, the government is setting up a board which will be, in a sense, a rate review, rate-setting board.

My question to you is: How important do you see the composition of that board, from what sectors should it be drawn and what kind of balance would you want to see in a board of this nature in order for the public to perceive fairness in the way the board makes its judgements?

Mr. Rotenberg: I think it would have to be comprised partially of the public. The public would definitely have to be involved in this board, probably a third. A third would have to be the government and a third would have to be the industry.

Also, part of the public would have to be people who are familiar with the various industries. The public is not in tune with the problems faced by various other industries such as the trucking industry or coaches, buses and things like this, so they really could not have too much knowledge of the problems that an insurance company or a trucking company could find. So if you are going to bring in the public, it would have to be a public that is knowledgeable in all aspects. It would have to be various people from various segments of the public.

Naturally, the government would have to take a role, and the insurance companies should also firmly be on that board. If one part says why something should be done, there should be somebody on the other side to say why it can or cannot be done in that manner, and the government is the final authority.

Mr. Farnan: With the kind of balance that you have put forward in terms of the different kinds of representation, do you feel that would go some way to alleviate in the minds of the public that there is a perception of fairness in what was transpiring with the board?

Mr. Rotenberg: I cannot see where fault could be found. Of course, it all depends on who you put on the board. This would be very important. They would have to be perceived to be people who are above and beyond reproach, who do not have an axe to grind.

Mr. Swart: I have one important question to you. You can take a crack at public auto insurance, and it is your right to do so; however, you comment there is not a word about the public subsidization of premiums. Would you produce for me any evidence you have that the premiums during--we are talking here for 1986, 1985 or 1984--if there was any subsidization of this premium of \$4,560? The annual report I have here points out that the government auto insurance, ICBC, made \$1.1 million profit in 1986 and \$73 million profit in 1985. Would you tell me how the premiums for taxis were subsidized?

Mr. Rotenberg: To be perfectly honest with you, I have researched this very carefully and quite frankly, when I read a report--this is provincial government insurers. I am sure you are familiar with this. When I see the investment income applicable to insurance operation, \$171,241,000, on gross written premiums of \$770,797,000, at that rate of interest, the government of British Columbia received 23 per cent interest on these premium payments. Drexel, Bernard, Lambert, with their junk bonds, do not pay you 23 per cent interest.

Frankly, I find all of these figures on public insurance are ludicrous. They are just so outlandish and so unreasonable. Anybody who knows anything about the car business knows there is not any public insurance plan that is not going to cost the taxpayers more money.

Mr. Chairman: Perhaps we should quickly go to a commercial.

Mr. Swart: I think I deserve a supplementary. I think Mr. Weafer would tell you, if you were talking to him, that in the first three quarters of last year they made something in excess of 19 per cent on interest as a proportion of their premiums which came in. Premiums are not paid out the year they come in or the year after. After three years, you still only have paid out half of the money that you receive. So you have several years' premiums which pile up.

In Manitoba, they have had something like 20 per cent return, British Columbia 22 per cent, and in the figures I have from Mr. Weafer, they had 19 per cent so far this year. So it is not one year. It has nothing to do with the premiums that come in; it has everything to do with the reserves that they have.

Would you point out to me where the interest came in? That is what I would like to see, where the subsidy came in, from the annual statements or any documents you have. I would be glad to have you show me where the subsidy came from.

Mr. Rotenberg: Please, be my guest.

Mr. Chairman: Perhaps you could file that as an exhibit with the committee.

Mr. Rotenberg: Fine. You are more than welcome to it. Frankly, anybody who comes up with interest of 23 per cent, he can do my arithmetic for me.

Mr. Swart: Nobody is saying it is 23 per cent.

Mr. Chairman: We appreciate your coming forward. I can tell you this much, that I am going home to check my insurance policies. If I am not insured by Co-operators, I think I am going to get insured by them. It sounds like a pretty good rate, I would say.

Mr. Rotenberg: We are a very fair-minded company.

Mr. Chairman: I should be very careful. I would not want the Canadian Radio-television and Telecommunications Commission to take away our licence for not giving equal time to each of the insurance companies.

Thank you very much. We appreciate your information.

Members, you have before you your folders and your tickets for Thunder Bay and Windsor. I also would note that we are going to take a second crack at Sudbury. On the item for January 28, where we have crossed out Mr. Rae, it is going to be the Wellington Insurance Co. At 3:30, we have the Manitoba Government Insurance Corp., I presume it is called.

Mr. Runciman: Do we know who will be appearing on their behalf yet?

Mr. Chairman: From which one, Wellington?

Mr. Runciman: Manitoba.

Clerk of the Committee: I understand we have three names, which I do not have with me at the moment.

Mr. Runciman: But the minister will not be here?

Clerk of the Committee: I am not certain who those three people are. I can let you know in about 15 minutes.

Mr. Runciman: There was some suggestion the minister might be appearing.

Clerk of the Committee: I could check.

Mr. Runciman: It is not critical. I can find out tomorrow.

Mr. Chairman: Perhaps that can be made known on Monday.

Mr. Farnan: Just very briefly, I am leaving the committee to be replaced by Howard Hampton as of Monday. I want to take the opportunity to thank the staff and my colleagues from the other parties. I have enjoyed working with you in the past couple of weeks.

Mr. Chairman: It was a pleasure having you with us. We just cannot believe that you will not be with us on our return trip to Sudbury, as we fly over to Sault Ste. Marie.

We are adjourned until Monday in Windsor.

The committee adjourned at 4:44 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ONTARIO AUTOMOBILE INSURANCE BOARD ACT

WEDNESDAY, JANUARY 27, 1988



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Farnan, Michael (Cambridge NDP)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Runciman, Robert W. (Leeds-Grenville PC) for Mr. Sterling

Smith, David W. (Lambton L) for Mr. Chiarelli

Swart, Mel (Welland-Thorold NDP) for Mr. Farnan

Also taking part:

Harris, Michael D. (Nipissing PC)

Clerk: Mellor, Lynn

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the Airport Taxicab Association:

Clifford, Frank, President

From the Independent Limousine Owners Drivers Association:

Kalhan, Vijay, President

From Gore Mutual Insurance Co.:

LaPalme, Serge M., President and Chief Executive Officer

Lewington, John A., Vice-President, Underwriting/Marketing

Cartmell, Andrew R., Corporate Actuary

From William M. Mercer Ltd.:

Hall, Gordon M., Vice-Chairman

Bass, Irene, Principal and Managing Consultant

From the Ministry of Financial Institutions:

Parrish, Colleen, Director, Policy and Planning Branch

Nixon, J. Bradford, Parliamentary Assistant to the Minister of Financial
Institutions (York Mills L)

Weir, John P., Superintendent of Insurance

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, January 27, 1988

The committee met at 14:03 in room 151.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT
(continued)

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

Mr. Chairman: I recognize a quorum. Pursuant to our understanding--we have Mr. Cureatz. He was being blocked out by Mr. Swart. You are here.

You have before you a revised agenda for today and tomorrow. The clerk will be giving one copy to each caucus of the additional material on the Facility Association. The first group to appear before us is Frank Clifford, president of the Airport Taxicab Association, and others. Perhaps you would like to come forward and have a seat up here. I understand Mr. Kalhan and Mr. Danevicius are here as well.

Mr. Clifford: As a group, I am representing Mr. Danevicius.

Mr. Chairman: Perhaps for purposes of Hansard, you will identify yourself and the gentleman next to you. I understand that we have briefs 52 and 52A before you. The way we like to work this is that we schedule half an hour. Perhaps you wish to read through your brief and leave sufficient time for the members to ask questions. We are flexible but we would like to keep within those time parameters if we can. Perhaps you would like to identify yourself and the gentleman next to you and then proceed.

AIRPORT TAXICAB ASSOCIATION
INDEPENDENT LIMOUSINE OWNERS DRIVERS ASSOCIATION

Mr. Clifford: My name is Frank Clifford. I am president of the Airport Taxicab Association and I have been also asked to speak on behalf of the members of the Mississauga Taxicab Association who operate solely within the boundaries of Mississauga.

Mr. Kalhan: My name is Vijay Kalhan. I am president of the Independent Limousine Owners Drivers Association at Lester B. Pearson International Airport. I will be speaking on behalf of all airport limousines, brokers, lessees and drivers who operate out of Lester B. Pearson International Airport.

Mr. Clifford: I would like to thank you for the opportunity to voice our concerns regarding taxi insurance. As I mentioned earlier, besides our members, we have been asked to speak on behalf of the cabs that operate within the city of Mississauga.

The challenge facing this committee is not an easy one. However, we ask

you to look at all the options including other provincial plans and put together a taxi insurance package that will address our concerns.

Any fool can blame the insurance companies for overcharging the cab industry. However, I believe they are just as frustrated as the true professional cab driver who also feels victimized. I think we all know where the problem is and the present method of increasing insurance premiums does not seem to work, which suggests we have to try another route.

A bad cab driver will send out all kinds of signals that reflect his poor driving habits. Why then is it so difficult to ground him? Are we infringing on his right to earn a living? Does the consumer not also have a right to a reasonably qualified driver? We cannot depend on the owner who hires this driver. His own personal economic situation dictates his actions. As an individual, he is prepared to gamble and jeopardize the group.

Active drivers could report to the licensing authority with a copy of their provincial driving record. Most municipalities will check the cabs for safety yet neglect the driver. We suggest that the insurance industry and the municipalities set driving record limits that reflect defensive driving behaviour. New drivers must take a defensive driving course before being issued a tax licence.

We also believe that the insurance companies should get tougher with auto body repair shops, insurance adjusters and tow truck operators. I neglected to put this in here, but also we think that we should actually look into the legal-medical teamwork that goes into responding to bodily injury claims.

In the meantime, until a solution is implemented and producing results, the consumers can expect fewer cabs on the road to serve them, more so when the weather is nasty. A possible short-term solution may be to extend the lifespan of the vehicle. Add this to other suggestions and we could overcome our insurance problems. When I refer to the lifespan of the vehicle, we are currently restricted by municipalities as to how long we can keep a particular vehicle on the road.

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Mr. Chairman: Do you also wish to present your brief at this time?

Mr. Kalhan: Yes, Mr. Chairman. On behalf of all members of the Independent Limousine Owners Drivers Association who are the actual providers of the limousine service at Lester B. Pearson International Airport, I thank you for the opportunity to present this brief.

While our mandate is to represent the interests of our members, it is ILODA's goal to ensure that the government of Ontario will look into some kind of system so that some insurance coverage is available to us to maintain our high standard of limousine service to all travellers coming in to or leaving Lester B. Pearson International Airport located in the city of Mississauga, Ontario.

This presentation will be composed of the following parts: introduction to the limo permits system, the companies and brokers, the lessee's relationship and vehicle ownership; brief history of auto insurance for

airport limousines and the companies involved; new developments in January to February 1988; and our difficulties and our suggestions.

I will give a brief introduction to the limo permit system. Under Transport Canada's GACOR system, or government airport concession operations regulations, as of today we have 195 limousines operating in and around the airport where they have Department of Transport licenses. There are five limousine companies that have these permits. They have sold the working contract rights to individuals on these limo permits. These people commonly referred to as brokers are the contract owners.

A broker can either drive himself or lease out this contract. The person who leases is a lessee and then he can hire another driver to help him out on the weekends who is called a weekend driver. All these individuals involved in driving the limousines have a special DOT licence from Transport Canada. They have a Mississauga public vehicle driver's licence. Of course, they also have an Ontario driver's licence.

All these brokers and lessees have to buy their own vehicle, which has to be a Cadillac or a Lincoln. Three years is the time period for new vehicles. He has to pay all the expenses including the auto insurance, maintenance and all other government fees to all different levels of government. These vehicles are registered in the company's name just for the licensing purposes only. They are the property of the brokers or the lessees.

Brief history of auto insurance for airport limousines: It has always been a problem to find an insurance company that can stay more than three to four years with our industry. I have personally seen at least six to eight companies. They come and go and they always cancel our policies.

I will put the names down here: Continental Insurance, Royal Insurance, Chubb Insurance, General Insurance, Coachman Insurance, Symons Insurance, Co-operators and now Commercial Union. Somehow these 195 policies have always been divided into three to four different groups. As of today, they are again divided into three or four different categories. We have insurance with Co-operators; 64 policies. We have insurance with Commercial Union, which is divided into two groups, and the fourth is Progressive, which is just new.

In 1983, we formed our own co-op called ILODA Co-operative Ltd. so that Co-operators could write us a policy. They cannot renew our insurance as of February 11. Some reasons are our high loss ratio and the government 4.5 per cent ceiling. Gentlemen, as it stands today, after February 11, 1988, we will not have any insurance coverage for at least 64 airport limousines. We cannot find a new market. About 150 families will be involved if we cannot find any market as of February 11.

Premiums: As our exhibit 3 will explain, in 1983 we were paying \$1,200 per year and in 1987 we paid \$2,904 per year to Co-operators. The reason we have not been offered a renewal is because of our high loss ratio and Co-operators cannot meet the losses with a 4.5 per cent increase. They want at least a 50 per cent increase which in one sense is still better than paying a 200 per cent increase if you go to Facility or some other place.

Exhibit 2 attached is a copy of the notice sent to all policyholders in March 1987 by the Co-operators. They say they cannot increase the number of policies which ILODA Co-operative had. Also attached is a cancellation notice we received in the month of December. I have also attached as exhibits our

cancellation notices from Chubb and from General Insurance in the last five or six years.

As of today, gentlemen, one company is charging \$690 per month insurance. That includes \$650 premium and \$40 interest they charge per month if they pay on behalf of those drivers. The point of concern is that the same insurance company has written two policies to two different airport limousine companies. One is paying approximately \$3,500 and the other company is paying over \$7,000 to \$9,000 or \$10,000 for the same airport limousines.

I would like to bring to your attention the difference in our commercial fleets and the private vehicles. We in ILODA admit there is a problem in the loss ratio. We cannot always blame the insurance companies. There are some bad-risk drivers. We ask the government of Ontario to define separately the professional drivers from others. There should be a separate identity attached to taxi or limousine drivers. There should be some exemptions on their driving records. There is a difference between a driver who drives 50 kilometres a day and the driver who drives 600 kilometres a day to make his living as a professional driver.

High operational costs: Because of the high operational costs, a driver has to put more and more hours into this industry to make a decent living. I have exhibit 5 which gives you the detailed amount of expenses a limousine driver has to pay every month. It costs us approximately \$120 a day to operate an airport limousine today.

Exhibit 6 will show you that I have mentioned the same insurance company, with \$3,500 to one company and approximately \$7,800 to \$9,000 to another company as of today. There are two limousine companies paying different premiums. We cannot blame the insurance company, as I mentioned. There are brokers involved and there are limousine companies involved. What worries me today is that it all boils down to my members who have to come up with and pay all these moneys upfront.

This is going to affect the excellent limousine service we always had at Lester B. Pearson International Airport one way or another if prices keep on escalating as they are today. We have prepared some suggestions which I would like to put in front of this body here today.

The government should bring in some legislation to stop these cancellations of commercial fleet insurance for limousines without a proper hearing by some publicly elected members. We are willing to pay for special cases for an extra increase in high loss ratio, but there should be some legislation to control it so that they do not cancel us right out.

There should be low commercial rates for good drivers with a good record. These should be supervised by the Ministry of Consumer and Commercial Relations.

The high-risk drivers with an accident in the last two years should be sent for special training or they should be encouraged or put on probation to get back to the low category.

They should establish a new class of professional limo-taxi driver licence where minor convictions do not affect their driving privileges.

There should be a special committee where members should be taken from

ILODA at the airport or taxi associations in the cities to work with the government and the insurance companies to (inaudible) these commercial fleets.

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There should be a special committee from the government of Ontario to study and recommend to the federal government about the permit system at the airport and how they can cut down our operational expenses or they can make some recommendations.

I have attached exhibits 1 to 6 after this on the breakdown of the permit system to the limousine companies; our cancellation notices; the Co-operators premium notices, starting from \$600 a few years back going up to \$1,452--that is for a six-month period; our general expenses; and the company I mentioned, two insurance certificates, both issued to two different limousine companies, with a 100 per cent premium difference.

Mr. Swart: I have just a couple of questions. I notice that on page 2 of your report you state: "Gentlemen, as it stands today, after February 11, 1988, we will not have any insurance for at least 64 limousines. We cannot find the new market. About 150 families will be affected." I presume that you can get Facility. You mean you will not be able to get it through the regular market. Is that right?

Mr. Kalhan: That is correct, sir.

Mr. Swart: Yes. In fact, you could get it through Facility.

I want to say to both of you that you have a thoughtful brief which you have presented, but I would just like to explore with you the recommendations you make on the last page. Do you feel that there would be merit in assessing a premium against the driver insurance that the drivers themselves would have to pay, and perhaps a pretty substantial premium, if their record got bad? In fact, it is the bad drivers who are causing the real problems, but now it is spread over all of the operations. If some system were devised--we had a proposal in Thunder Bay yesterday and, of course, the western plans do have a driver premium--whereby when a driver proves that he is a bad driver, he would pay an insurance premium on his licence instead of everything falling on the vehicle, as it does today, would you support that kind of system?

Mr. Clifford: Currently, the drivers are paying the premium. In other words, if I want to put a driver in my car and it costs an additional \$1,500 or \$2,000, then if the driver wants to work in my car, he is going to pay for it, because there is not enough revenue in the time frame of a day's work for me to pay it. I have got to pass it on.

Mr. Swart: But is it not true, though, that you are still stuck with that, or a substantial part of that, even if he leaves? If the bad driver leaves, that goes with the plate.

Mr. Clifford: The legacy he leaves is--

Mr. Swart: Is pretty serious for you.

Mr. Clifford: It is pretty serious, sure.

Mr. Swart: Yes, but if you had some system where--

Mr. Clifford: Where the driver himself carries his own policy with him?

Mr. Swart: Yes, or at least--

Mr. Clifford: That is something that maybe should be explored. Is it being explored?

Mr. Swart: It seems to me that it--

Mr. Clifford: In other words, if he goes to get a taxi licence, the licensing authority says, "If you want to drive in this particular city, you must have insurance." In other words, if you have spread it over 16,000 drivers, you have got a wider base, as opposed to 4,000 taxicabs. Is that what you are more or less saying?

Mr. Swart: I am not saying it would exclude--

Mr. Clifford: No.

Mr. Swart: There would not be any insurance on the cabs. There would be basic insurance, but when it came to the risks because of driving faults, because they are involved in accidents, perhaps the bulk of that should be assessed against premiums on the individual rather than against the taxicabs themselves.

Mr. Kalhan: Yes, I agree with you. It happens up to now that we always have a policy on each car. Then the driver comes, drives, has a serious accident and goes away, drives in a different company and does not mention it. What we tried at the limousine side of our own co-op is to make a file on each and every individual driver in our office. As long as the driver is under our ILODA co-op, we always know. But if the government can come up with some better recommendation, we will go with it. The driver should have his abstract or whatever. It should mention how many accidents he actually created, or whatever.

There should be some additional premium. I am not saying if he has a physical (inaudible) he can pay the whole premium, but there should be an additional premium levied on that particular driver to compensate the insurance industry.

Mr. Swart: Based on his records.

Mr. Kalhan: Records.

Ms. Poole: Mr. Swart asked one of my questions concerning the driver, as opposed to the owner, paying the premium. The second question I had related to page 3 of the brief.

Mr. Chairman: Actually, it was Mr. Baxter's question.

Ms. Poole: That is right; it was Mr. Baxter's point, brought up by Mr. Swart.

Under "Point of Interest" midway down on page 3 you say, "Same insurance company have issued a policy to another airport limousine company for half price to the premiums stated above." Was there a higher risk factor with your cars that contributed to this arrangement? Were you given any reason that your premiums were double those of the other cab company?

Mr. Kalhan: What happens here is that every broker or lessee owns his own vehicles. If he cannot find his own insurance, he goes to the limousine company. The limousine company arranges fleet insurance with the insurance company through some brokers. In my association the members have asked, "Why are we paying \$700 to \$1,000 a month under the same company insurance where the same company is insuring another limousine company for just about \$3,500 a year?" And it is the same period covered.

When we come to the airport, we line up in the same system, like everybody else. It does not matter if it is Airline Limousine, Aaroport, Airlift or McIntosh. We all pick up, we wait in the same parking lot and we all line up. There is no classification whatsoever. We have the same insurance coverage and the same everything, because Transport Canada has drafted what covers the need: liability and everything. For the same coverage, one group in one company is paying \$900, \$800 or \$700 a month with a clean licence, whereas you go and drive in a second company--same limousine, same outfit, same service--and you are paying just \$350 or \$400.

Ms. Poole: With no rationale given for the difference?

Mr. Kalhan: No.

Mr. Clifford: If I can interject, it has been brought to my attention--and I think this is what Mr. Kalhan is referring to--that it seems if you are a fleet, the insurance companies themselves have a special price for you, as opposed to if you are an individual.

It has been suggested to some of us individual cab drivers to put all our cabs in the name of one person; he in turn goes out as a fleet to purchase it, and we can save money buying insurance. But then we are looking at maybe anywhere from \$2,000 to \$4,000 per individual licence to transfer that licence so we could collectively buy insurance at a cheaper rate. They are prepared to sell to fleets more cheaply, but to individuals they do not.

Mr. Kalhan: Exhibits 6(i) and 6(ii) at the end of this blue booklet explain to you that the agent is the same, the broker is the same and the insurance company is the same. The only thing different is the two limousine company names. One is paying \$10,000 a year, average, and the other one is paying just \$3,500 a year.

Ms. Poole: I can understand your difficulty.

Mr. Clifford: And it is all part of the same company.

Ms. Poole: We have had a couple of presentations from cab companies where they have talked about risk management programs. In fact, in one of the presentations we had--I believe it was last week--the owner said that they had put in a risk management system several years ago, they had found an insurance company that gave them very reasonable rates and they insisted that their drivers have driver safety and training courses, all this type of thing. Have you considered something like this to try to entice the insurance companies to give you a better rate?

Mr. Kalhan: Yes. I have a paper here. In our own co-op, which is called ILODA co-op, we issued a notice. We had a meeting six months ago. Every driver who belongs to our co-op at the airport must go through a safety defensive driver course, and 90 per cent of our members went through that course. The only problem we had in (inaudible) the last six months, the last two years, was not in our control.

But now we end up with a dead-end street. After February 11, there is no way the insurance companies are going to renew our premium. Now, we are willing to pay the increase because of the losses, but it is so unfortunate because we have improved the drivers in the last year or year and a half since we formed the co-op. We have really become quite severe, because this is a profession. A lot of my members have over \$150,000 to \$200,000 invested in each limousine, and that is the only job they have. Two or three members of the family are involved in the limousine, and this is a family business. It is like a franchise, Beckers or Mac's milk. This is a franchise business, where the families depend on this service.

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Now, because of the insurance, everybody is willing to do any kind of training, any kind of thing to keep their jobs and to keep the industry going. But as we stand today, our future looks very bleak and our service will be affected unless we find a steady market for insurance.

Mr. Cureatz: I have just a brief question. I know we are getting into the other presentation's time.

I am curious about the exhibits. I am looking at your exhibit 2(iv), being a General Accident Assurance Co. of Canada notice of the possibility of cancelling the policy. I am looking at the figures. Am I reading this right? On the first page, if you have the example, it says total premiums are \$126,000, more or less, and claims, \$70,000. On the next page it says that if it is not improved, the policies will be cancelled. So they have taken in \$126,000 in premiums, they have paid out \$70,000, but they are not happy about that ratio. Am I reading that right?

Mr. Kalhan: They did cancel the policy--that is, the people who were looking after it in those days for this insurance in our association. I tried to find out the final figures from that insurance company. Probably the loss issue was a little bit higher and they did not rate another two or three years down the road.

You see, this is one difficulty we had. There is always an up and down in every industry, and maybe two years they lost and the third and fourth year can make a profit, or you can make them better drivers. But all the insurance companies we came across, they drive only two or three years and then they cancel. Now we have a better organization of our own co-op in the airport; we have a better management system and a better training system, but we have nobody who will give us a little push.

Eventually General Accident Assurance, after that, cancelled that policy. Then I understand we went to Continental, then we went to Chubb, and on and on from there.

Mr. Cureatz: On the second page it indicates that, notwithstanding the above figures, they will be in a projected loss situation.

Mr. Kalhan: Yes. For some reason, they always put 15 per cent or 20 per cent extra after their administrative costs on these. They probably already projected it and they did not think it was a profitable proposition, so eventually they cancelled.

Mr. Cureatz: Even if you put, say, 10 per cent--that is \$7,000--on the claims, that is \$77,000. Well, even \$20,000; that gets the claims up to

\$90,000 and the premiums are \$126,000. I guess they are saying that even at a premium of \$126,000 and claims of \$90,000, they are still in a loss situation?

Mr. Kalhan: Yes. That was the 1980 year, and that is when they cancelled us.

Mr. Chairman: If I could just ask, specifically on the limos at the airport, are your rates set by the federal government or are you entitled to charge whatever rates you want?

Mr. Kalhan: On our limousine fares?

Mr. Chairman: Yes.

Mr. Kalhan: Actually, after having consultations with the municipalities around Metro Toronto, the federal government's Department of Transport sets up our flat rate sheets.

Mr. Chairman: In other words, there is no buffer built in for the owner of the cab or the driver who pays the tariff to up his fees to try to accommodate this accident problem or this increase-in-insurance problem.

Mr. Kalhan: No. We had a problem with our taxicab groups. You see, their rates are on meter, ours are on a flat rate. For some reason, Transport Canada never asked us to have any input. In some cases we lose business, then it increases. But for insurance rate hikes, whatever, at the end of the day, expenses always bring our take-home money lower and lower every year for the last four or five years since I have been actually involved in the association.

Mr. Chairman: I would imagine that even with the taxicab situation it would be the same thing: the municipalities would set the ceiling on it.

Mr. Clifford: Yes. You are regulated as far as rates go. As far as the driver is concerned, one driver may be charged \$7,000 a year in insurance and you are paying \$3,000, but he still does not make any more than you. The only way he can increase his income is to work more hours or neglect his mechanical--

Mr. Chairman: As I understand it, then, the driver is locked in to make less money if the cost goes up, but the person who owns the cab, because he is collecting it from the driver, the only difficulty he, she or it would have would be in trying to find somebody to work for that reduced profit ratio.

Mr. Clifford: A safe driver.

Mr. J. B. Nixon: I just have a couple of quick comments. Mr. Clifford, you raised a couple of points in your submission that I wanted to respond to.

Near the bottom you suggest that "the insurance companies should get tougher with auto body repair shops," amongst other things. I just wanted to let you know that the government has tabled a piece of legislation called the Auto Insurance Repair Act, which will, amongst other things, prohibit the charging of different rates for vehicle repairs depending on who is paying for the work, whether it is the insurance company or the individual. It was an abuse that was complained of by many people and it will be prohibited.

The second thing is that, although it is not in writing, Mr. Clifford, you suggested that someone should be looking at the legal medical terms dealing with bodily injuries. You may not be aware that the Honourable Mr. Justice Coulter Osborne of the Supreme Court of Ontario was commissioned about a year ago to report on the no-fault system of accident compensation, and his report is due any day now.

Mr. Kalhan, I just want to respond to your recommendations on page 4 very generally to say that the uniform classification system for underwriting, which will be a public system described by the government in regulation, will create a separate category for the owner-operated taxi and limo drivers, and their rates will be set by the auto insurance board, which is before us in Bill 2, which is what these hearings are all about. I just want to let you know that.

Mr. Chairman: Thank you very much for coming and presenting the briefs to us. It will be considered along with all other briefs. Thank you again.

The next delegation is the Gore Mutual Insurance Co., John Lewington. It will be exhibit 53. It appears as though Mr. Lewington has divided himself into three.

GORE MUTUAL INSURANCE CO.

Mr. LaPalme: In fairness, Mr. Chairman, when I called I did give the three names.

My name is Serge LaPalme. I am the president and chief executive officer of the Gore Mutual Insurance Co. in Cambridge, Ontario. I have with me our vice-president for underwriting, marketing and actuarial services, John Lewington, and to my left is Andrew Cartmell, fellow of the Canadian Institute of Actuaries and corporate actuary for the Gore Mutual Insurance Co. and the Gore General Insurance Co.

We are here on behalf of our company to express our concern with respect to Bill 2. The Gore Mutual Insurance Co. is an Ontario company founded in 1839 and owned by our mutual policyholders. We are the oldest independently owned and operated insurance company in Canada. We are an auto insurance underwriter since 1938. Many of our auto policies have been insured with us for over 25 years. We are a company having 53 per cent of its total business in automobile insurance and 90 per cent of its auto insurance business in Ontario.

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We are a company committed totally to the Canadian marketplace, operating in Ontario, Quebec, Alberta and British Columbia. We have three Ontario offices, 232 Ontario employees and are represented by some 425 independent brokers. We are a member of a group of Canadian companies, the Association of Canadian Insurers, who collectively provide auto insurance to 25 per cent of all drivers in Ontario.

The Gore Mutual is deeply concerned, on behalf of its policyholders, about the future claim cost of auto insurance in Ontario. The table on page 3 shows that our company's combined revenues from auto premiums, investment income and realized capital gains has not been sufficient to offset automobile claims costs since 1983.

The Gore Mutual believes that Bill 2 in itself does nothing to address the number one problem of escalating claims costs in Ontario and the resultant premium pressures that are being placed on the motoring public. The bill, in our opinion, does not provide for premium stability but rather imposes serious premium dislocation through redistribution.

The table identifies our experience in the writing of automobile insurance for the period 1982 to 1986. As will be of interest to some members of this committee, even after the application of investment income and capital gains, we have found ourselves in a deficit position with the exception of 1982.

Where did these losses arise and what is the specific problem? The overwhelming source of these losses become apparent when auto insurance coverages are broken down into bodily injury related coverages and physical damage.

The table on page 5, which will be explained by our corporate actuary, shows the Gore Mutual actuarial indications of premiums required and changes selected since 1986. You will note consistent double-digit indicated increases in the third party and accident benefit coverages, those coverages related to bodily injury, while collision and comprehensive coverages seldom exceed a five per cent indication.

I suggest to this committee that the problem faced by our company is not with respect to physical damage but directly to bodily injuries. The 4.5 per cent increase permitted by the Ontario government in 1988 will provide less than one third of the third party liability increase indicated for Gore at April 15, 1988.

Clearly, the Gore Mutual's claims costs for bodily injury reparations are exceeding our increased premiums. Our example is typical of the combined auto insurance industry.

In summary, we are concerned that bodily injury claims costs continue to escalate. No claims containment is, as yet, on the horizon and our policyholders are showing great resistance to increased premiums as the only solution.

What then for consumer expectations? This bill should focus on addressing the principal concerns of the auto insurance consumer: the overall costs of auto insurance and the resultant personal premium paid for a policy.

In the overall context, the consumer benefits in the cost-based insurance product if the total cost of claims settlements, rehabilitation, adjustment expense and distribution expense is controlled, even reduced in some areas. We believe the Insurance Bureau of Canada's smart no-fault proposal would provide this consumer benefit.

In the personal sense, the consumer wants to know the price of his product, the components of the price makeup and the comparability to similar products. The auto insurance consumer believes that his premium should reflect the good features of years of driving experience, absence of accident or convictions and other controllable behaviour related to his automobile. The consumer also believes that equity in rating includes, "Those who use the system pay for the system."

How does this bill address the personal expectations of consumers? The mandatory classification plan eliminates benefits developed over many years, first accident forgiveness, good driver plans, senior drivers' discounts and other preferred driver marketing innovations and coverages inspired by the auto insurer's desire to be competitive.

While we agree that marital status can be eliminated as a rating attribute, the public has responded that the elimination of age and sex as rating attributes is acceptable to the average consumer as long as the individual cost does not rise appreciably.

The Contemporary Research Centre in April 1979--and we believe this holds true today--concluded in a survey to test the attitudes of auto insurance purchasers in Ontario towards eliminating age, sex and marital status as factors for classifying insureds in this province:

"A majority of insureds, on a philosophical basis, feel that sex, age and marital status should not be used to determine a driver's premium. This attitude changes dramatically, however, when cost implications of such changes are introduced." Of those who favoured elimination, "more than seven in 10 say they would not be willing to pay any additional premiums to see age eliminated. Less than one supporter in 10 says he or she would be willing to pay as much as \$40 to see premiums equalized by age."

Eliminating age, sex and marital rating attributes means the majority, mature drivers and females under age 25, must subsidize the minority, under-25 male drivers. The mature average-rated driver is 67.3 per cent of our auto policyholders while the under-25 male is 12.2 per cent. In our company, it would mean that the 67.3 per cent would be subsidizing the 12.2 per cent.

Eliminating the Gore's preferred driver plan also eliminates an additional eight per cent discount for 16.6 per cent of our policyholders. Female principal operators under 25 will see a price rise from their current preferred premium levels, and they represent 3.9 per cent of our policyholders.

The vast majority, up to 88 per cent, of the Gore Mutual auto policyholders, will pay higher premiums to cross-subsidize the premiums of high-risk, high-claim-cost drivers, the 12.2 per cent of young males under 25.

The board-developed premium levels will provide no real alternative for the consumer other than a narrow band of company deviations. Here might I suggest that from my experience this narrow band will mean no competition and is to the disadvantage of the consumer.

We attach a premium comparison illustrating the dislocation impact of the proposed changes on Gore Mutual policyholders. In this appendix, you will see changes ranging from plus 31 per cent to minus 54 per cent. We doubt that the Gore Mutual's policyholders will agree that this much change is reasonable or justifiable.

Very substantial additional costs will result from the complete revision of the statistical plans, the necessity for companies to reclassify every auto policy, government bureaucracy in creating a board, staff of an alleged 60 persons and a computer system capable of linking with more than 200 insurance companies. The added higher administrative costs will be passed on to drivers at a time when the Ontario motorist expects premium reduction.

We suggest Bill 2, as currently written, fails to address the personal concerns of the consuming public as well as the overall concern of the public policy advocate. Instead of addressing "Who pays?" the public policy advocate should concentrate on the total costs of the auto insurance reparation system. The main cost engine in recent years has been the settlement of bodily injury cases and the cost of rehabilitation. This cost element has been fuelled by the judicial process and expectations raised by the Family Law Act, prejudgement interest, gross-up, etc.

The Gore Mutual believes that the public is ready for law reform as it impacts the auto insurance mechanism. We encourage the tort reform process in Ontario. The Gore Mutual also believes that the smart no-fault proposals of IBC, including limitations on the right to sue through application of a verbal threshold, will have a containment effect on the overall cost of the system. Since auto insurance is cost-driven, whether government or the private sector sets the price, controlling the underlying cost element inures to the benefit of the consumer as individual premiums are developed.

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How then can we benefit the consumer?

We must encourage the evolution of the current rating plans in use by the auto insurance industry by introducing statistically tested attributes such as years of driving experience, miles operated annually, and extend the use of the vehicle to all classes. The introduction of progressive change avoids the sudden dislocation which the adoption of the mandatory plan will create.

We must provide information on every auto insurance policy so that the policyholder can clearly read the attributes used to price his auto insurance. This would include full disclosure of every item used to develop the individual's premiums such as: use of the vehicle, claims-free record, mileage declared, number of operators, multi-vehicle discount, driver education credit, etc.

We must continue the opportunity for industry marketing innovations, discounts and coverages developed for Ontario drivers such as these industry-introduced benefits: forgiven first claim, senior citizens' discount, good student discount, preferred driver plans, protection against underinsured motorists, package policy coverages and discounts, endorsement packaging, driver training benefits, multi-vehicle discounts.

It is proposed the board will set a range of rates for almost every facet of auto insurance in Ontario. Since the Ontario consumer is only obliged to purchase third party liability and accident benefits coverages and since there are no difficulties with the physical damage coverages as we know them today, we feel the board's jurisdiction should be limited to the compulsory coverages.

While we understand the public policy benefit of a rate review mechanism within a mandatory insurance environment, we do not accept the rate setting mandate for this board. The current market rate for auto insurance, on average, has been set in a competitive environment, to the price benefit of the majority of individual consumers. The board's rate-setting, all-coverage mandate diminishes the innovation, choice and competitiveness of the free market and the consumer is disadvantaged.

The Gore Mutual feels that a board review of its proposed liability and accident benefit rates would be an acceptable public policy control. Such a review would enable us to set our rates according to our underwriting results. In our company, with 53 per cent of all our business derived from auto insurance, we cannot totally abdicate the price setting responsibility to a third party. In a free market system, the price level must be adequate to guarantee availability of access to insurers for the consuming public.

In summary, the Gore Mutual Insurance Co. urges this committee to:

Reconsider the objectives of Bill 2 as currently written.

Recognize the need to benefit the consuming public in the broadest terms, addressing overall costs of the reparations system and the individual's need to audit the system for his benefit.

Retain the best features of the existing free market auto insurance mechanism while improving and evolving change, as proposed in this brief, for the consumer benefit.

Automobiles make and model characteristics are significant factors in risk analysis and rate categorization and deserve more consideration than studies have indicated to date. We must address damagability and repairability as rating criteria.

Revise the board's mandate to parallel the mandatory liability and accidents benefit requirements of the province. Change the board from a rate making body to a rate review body.

Recognize the need to initiate immediate tort reform in Ontario. To this extent, we have attached an appendix, which will be reviewed undoubtedly by the members of this committee.

Announce the government's intention to implement a smart no-fault automobile insurance reparation mechanism by 1989. Should the government elect to pursue its intentions with Bill 2, in order to minimize the impact of dislocation, may I suggest that it be introduced at a time when we in Ontario would have a smart no-fault mechanism that would seek to reduce the cost of automobile insurance in Ontario. There has to be a counterbalance, failing which the public of Ontario will have a rude surprise, seeing their premiums increase dramatically at a time when premiums are expected to decrease.

The Gore Mutual Insurance Co. is available and willing to work with government to bring about a meaningful and acceptable change for the Ontario motoring public.

Pages 14, 15 and 16 of our brief indicate some of the dislocations that would take place with respect to our own portfolio. Should there be questions, I will be pleased to ask our vice-president of underwriting to address them.

Mr. Sola: I would just like to ask: You say on page 9, "Gore Mutual auto policyholders will pay higher premiums to cross-subsidize" and you are referring to the 12.2 per cent of young males under 25. Yet on page 11, your first point is forgiving the first claim. In a forgiveness, do I understand that you forgive the first claim and that automobile goes around unrepaired?

Mr. Lewington: No, that is not the case. We do not change the rating of a person's policy after the first claim. The first claim is forgiven.

Mr. Sola: But somebody pays, right?

Mr. Lewington: Oh, yes. The insurance company pays to repair the vehicle, but there is no rating change to the insured policyholder.

Mr. Sola: Right, but somebody pays. I doubt that the insurance company takes it out of its own pocket. One of the other policyholders probably has a slight increase.

Mr. Lewington: It is built back into the system. That is correct.

Mr. Sola: Is that not cross-subsidization?

Mr. Lewington: To some extent, I guess it is.

Mr. Sola: Then I think that point on page 9 should be taken into account. If you can cross-subsidize the good driver, why would you automatically exclude cross-subsidizing the new driver or the young male driver?

Mr. LaPalme: I believe that answer can be addressed this way. Young drivers, in general, represent approximately nine per cent of the motoring public of Ontario and are involved in roughly 25 per cent of all accidents. Our rule with respect to forgiveness would apply to all motorists, and while it is true that there is some cross-subsidy, it applies to all and not necessarily to a minority. In other words, if you forgive, you forgive to all.

The idea of cross-subsidy with respect to under-25 male drivers is that it is a small group of people, nine per cent of the motoring public, involved in roughly 22 per cent of accidents, higher frequency, higher severity. Here we would ask roughly 80 per cent of our insureds, in effect, to accept anywhere between a 10 per cent to 20 per cent increase to subsidize high-risk drivers.

That to me is not fair. The forgiveness rule is fair in that it applies to all people. All persons can be involved in a traffic accident at one time in their driving lives. I do not believe that can be disputed.

Mr. Sola: Yes, but of the young male drivers, the nine per cent, how many of them on average have an accident? Do 20 per cent, 50 per cent or 30 per cent?

Mr. LaPalme: I do not have that figure for you here, but we do know that industry-wide--and I only repeat industry statistics here--they do represent nine per cent of the motoring public and they are involved in 22 per cent of all traffic accidents.

Mr. Sola: It seems strange, though, that there is no further breakdown of that nine per cent to see which segment or how many of that nine per cent cause all the accidents to create the high premium levels for the whole category. Yet in the forgiveness clause, we have heard before this committee that approximately one third of the five-star or six-star drivers have been forgiven a claim within the past three to five years.

Mr. LaPalme: That is correct.

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Mr. LaPalme: That is correct.

Mr. Sola: It seems strange that you would break that segment of the driving public down so minutely and yet you would just tar the whole under-25 male bracket with the same brush. Why would you break down the five-stars into a one-third category that has been forgiven and yet take young males under 25 and say everyone is bad because certain ones are bad? Where is the logic in that thinking?

Mr. LaPalme: If you are alluding to the fact that one should only charge or penalize those young drivers under the age of 25 who have accidents, they would never live to be old enough to make up in any way for the amount of claims paid on their behalf. So logically, and as does apply the rule of insurance, they are grouped as a body of people involved in traffic accidents and therefore the premiums are charged accordingly.

Mr. Sola: A couple more questions and then I will pass. What would be the average cost of the claim forgiven for the good drivers--\$400, \$500, \$1,000? What is the cut-off point?

Mr. Lewington: In our company there is no threshold for forgiving a claim. A claim for as little as \$200 or as much as \$100,000 or more can be forgiven. There is no penalty in premium.

Mr. Chairman: Is it discretionary?

Mr. Lewington: No, it is built into our rating rules.

Mr. Sola: How about for the young male driver? What is his average claim?

Mr. Lewington: Those statistics are available in the green book. I am sorry; we do not have that exhibit here for you to examine.

Mr. Sola: I have asked that several times because I would like to be able to compare one to the other to see what the overall effect on the companies and on the industry is, to see whether there is any justification.

Mr. Lewington: We will make a note of that and send you some information on it.

Mr. Sola: Because I am wondering whether nine per cent can create enough accidents to offset what one third of the driving public does that is forgiven.

Mr. LaPalme: We will get that information to you.

Mr. Smith: Just to clarify what you have been discussing here, you said that nine per cent are under 25 years old and they have 22 per cent of the accidents?

Interjection: Yes.

Mr. Smith: Is the last comment that you made, that you do not really know what percentage of all the claims that you pay out, you say there is 22 per cent of the accidents, but what percentage of all the moneys that you pay

out for claims comes from that 22 per cent of the accidents? Have you got those figures?

Mr. Cartmell: We do not have those figures with us.

Mr. Smith: But those are the ones that you are going to give to Mr. Sola?

Mr. Cartmell: Essentially. It is statistically proven that the young male driver classes as a group have higher frequency and severity over most--in fact, all--other classes that we rate.

Mr. Smith: But because they have 22 per cent of the accidents does not necessarily mean that they account for 22 per cent of your payouts.

Mr. Cartmell: In fact, it would probably be more than 22 per cent. Because of the severity of those accidents, the actual cost of each accident tends to be higher for the young male drivers than it does for the other classes.

Mr. Keyes: Just following up on that, because no one has yet given Mr. Sola an answer to this--but I just phrase it slightly differently--is your forgiveness once, one accident, first-time-only accident, one every three years, one every five? Because we hear of different forms of forgiveness. That is the one question. But then second to that is you may have within your company the stats that--supposing there was not a forgiveness clause, there would have been an increased premium for those people. You can give me two figures.

You will have surely what it costs you to pay the claims for that forgiveness. That would be a hard, cold figure. The other one would be a little more difficult to obtain, but what would have been the increased premium for those people had they not been given a forgiveness. I wonder if we would not find that a very startling figure--the combined totals of the claims you have paid because of forgiveness total across your drivers and the additional premium they would have paid had it not been in effect. Will you answer the two questions, the one on what is your policy of forgiveness, because it varies, it seems, in a lot of companies--

Mr. Lewington: On the first question, our policy on forgiveness is that for any driver with a clear driving record of five years, the first accident is forgiven. It does not matter what the threshold of that accident is. It can be a \$200 accident or it could be a \$100,000 accident. In answer to the second question, on average the claims that are forgiven are no different in size than those that are not forgiven.

Mr. Keyes: True, but you would have a total figure. Every year you would know, I assume, what you paid out, because even though it is forgiven, you probably paid out the claim anyway as a company, so you would have a figure to know what that amount is surely.

Mr. Lewington: Yes, we could certainly get that figure.

Mr. Keyes: Then perhaps you would be able to have the other figure as to what the increased premium would have been for a person who had not been forgiven.

Mr. Lewington: I do not think that a study has been done on that recently, but when forgiveness was first introduced into the province of Ontario, and that was an industry-driven initiative, the estimated cost of balancing back the forgiveness was between six and seven per cent, I believe.

Mr. Keyes: Attached to the other figure of claims paid, I would not want to suggest that it might have more than offset your losses in a year, but it would be very interesting to look at just what those figures were.

Mr. LaPalme: I believe it is fair to suggest that the forgiveness rule is a marketing tool.

Mr. Keyes: Yes, I realize that.

Mr. LaPalme: Actuarially, it could not necessarily be supported. It is driven by competition, competition to the best interests of the consumer, and it encourages good driving behaviour, obviously. The fact that one has had an accident need not necessarily mean that he would have another one. Having said that, it is recognizing a long-term relationship with your insured, it is a marketing device, it is not necessarily actuarially supported,

Mr. Keyes: In theory you could have a very major one every five years, which would be forgiven. You could have five years free, a great big one for \$100,000, be forgiven and five years again have another one, in theory.

Mr. Lewington: Potentially that could happen.

Mr. LaPalme: That is a generalization, but having said that, all is possible when one generalizes.

Mr. Swart: I welcome your presentation, Mr. LaPalme. It is a very forceful one. We have met in other forums. I am glad to see you here again.

Mr. LaPalme: Thank you. With your permission, I thought that today I would answer you in French.

Mr. Swart: Un peu. I just wanted to clarify, on pages 8 and 9 your reference to the under age 25 drivers. I think it is clear, but I just wanted to clarify it. You mention there that female principal operators under age 25 will see a price rise, and 3.9 per cent of your policies would be to young females. Then on the next page you say, "The vast majority, up to 88 per cent, of Gore Mutual auto policyholders will pay higher premiums to cross subsidize (the 12.2 per cent of young males under 25)...." Are the 12.2 per cent of all of your policyholders young males under 25, is that correct?

Mr. LaPalme: That is correct.

Mr. Swart: Are those also the principal operators of the cars, or are some of those young males on as second drivers?

Mr. Lewington: Those are the principal operators.

Mr. Swart: I wanted to clarify that. So when you say nine per cent of your policyholders, I presume this is true throughout the market generally.

Mr. LaPalme: Nine per cent of the policyholders, Mr. Swart, was referring to overall industry statistics, not necessarily ours.

Mr. Swart: So that nine per cent are under age 25.

Mr. LaPalme: Statistically reported by the highway traffic reports.

Mr. Swart: But you do not have two things with you, the average premium that might be paid by those under 25 who are principal operators--would you have that in your records? Do you separate them?

Mr. LaPalme: Sure, we have that.

Mr. Swart: Could we get that from you? I would very much like that.

Mr. Chairman: If you show that to the clerk, she will see that all members get a copy.

Mr. Swart: To follow up on Mr. Sola's question and provide that information, which he asked for as well, the accident payouts for those young people. I would like to have that.

May I just make two very quick comments in prefacing my other questions. You make it very clear that this board is going to do nothing to reduce rates.

Mr. LaPalme: I believe that sincerely, failing which I would not be here, Mr. Swart.

Mr. Swart: I believe that sincerely too. I would agree with you that, maybe Mr. Kwinter is right when he said it would increase rates from eight to 39 per cent if we had a rate review board.

Mr. LaPalme: Now, I do not necessarily agree with that one. I think I differ with you. I do not believe that--

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Mr. Swart: I did not say that, Mr. Kwinter said that. He was the minister at that time.

Mr. LaPalme: I see, fine. That is different.

Mr. Swart: We will give Mr. Kwinter the benefit of the doubt here. More than you would to me. People are going to get a massive shock when that rate review board makes this their ruling. I have no doubt.

Mr. LaPalme: The rate-setting board, as presented in Bill 2, does not address the issue of automobile premiums in Ontario. It does nothing for it. If I believed that sincerely, I would say so. Given that I do not believe it, I will always say so.

Mr. Swart: And if it is going to allow for a reasonable profit on automobile insurance operations, your rates would have been quite a bit higher in the last few years, according to the losses that you give us here, would that not be correct?

Mr. LaPalme: We went into great detail to indicate to this committee, that even after investment income and capital gains, automobile in Ontario remains unprofitable.

Mr. Swart: I got the impact of your reference in your comments, and who it was aimed at. I am sure you knew that I would.

Mr. LaPalme: Thank you.

Mr. Swart: I want to say that I am in absolute agreement with you when you say at the top of page 7, "This bill should focus on addressing the principal concerns of the auto insurance consumer: the overall cost of auto insurance and the resultant personal premium paid for a policy." I could not agree more with you. We would have a difference, of course, on one of the places where we would look to make it much cheaper, and that would be in the overall expense. I am not going to get into that today, but it is from these hearings today, tomorrow and what we have had, it is certainly going to be on record that the public systems can operate on about 20 per cent, compared to a minimum of 36 per cent, as stated by Jack Lyndon, Insurance Bureau of Canada. I think you were here that day.

Mr. LaPalme: We have the very unfortunate malaise of not being subsidized by anyone, so we have to reflect our costs.

Mr. Swart: I can assure you, we will satisfy that one too, by the time these hearings are over, and be assured there is no subsidization. However, I am not going to get into that issue today. I do want to ask you to turn back to the financial statement on page 3. It has some relevance to the industry in general, I think.

The first question I wanted to ask, you show a startling gross premiums written income in 1985 and not quite so much, but again up substantially in 1986. I want to immediately recognize, of course, you show a great increase in losses too, but would that premium increase be attributable totally to increase in premiums or primarily to increase in premiums, or to more policy holders?

Mr. LaPalme: I am glad you are asking that question. That year, was our year of great generosity. We felt that we ought to be in the marketplace, meeting, if you please, the consumer demands. That year our policy count, from memory, increased by roughly 20,000 counts.

Mr. Swart: From how many to how many? Perhaps you can give us that.

Mr. LaPalme: Ballpark.

Mr. Lewington: From 70,000 to 90,000.

Mr. Swart: If you want to put that in writing in the letter you are going to give to us, the document, I would appreciate it. Give it to the clerk, as the chairman points out.

Mr. LaPalme: As a matter of fact, if anything, 1985 saw us in the marketplace with a very competitively priced product. The net result was, a substantial increase in the numbers of policies in force in automobile insurance.

Mr. Swart: Would there have been, from 1985 to 1986, the same, an increase in policyholders too, do you know that figure?

Mr. LaPalme: No. In 1986 it would be fair to suggest that we did make some premium adjustments to reflect our losses, and given that we are in

a very competitive environment, there being some 150 companies competing with one another, we saw the erosion of our book of business in automobile insurance.

Mr. Swart: You had slightly fewer policies?

Mr. LaPalme: We had fewer policies, yes.

Mr. Swart: Did you substantially--I am not trying to get--

Mr. LaPalme: I would say, by virtue of our growth in 1985, substantial decrease in 1986.

Mr. Swart: From what to what, now you have given us the ones from--

Mr. LaPalme: We would have easily lost 6,000 to 7,000 counts.

Mr. Swart: That would have indicated a very substantial increase in premiums then during that time?

Mr. LaPalme: That would be true.

Mr. Swart: In 1985 you had not put in a substantial increase.

Mr. LaPalme: In 1985 we were at a very, very competitive price in the marketplace.

Mr. Swart: I am not going to ask you to give me the list of the prices that you charged, but if you could give the actual numbers of policy holders you had in 1984, 1985 and 1986 I would be pleased to have it for the information of the committee. I think it will be valuable.

I would like to ask you, on that same page--one of your actuaries--out of the losses incurred of \$41 million in 1986, what proportion of that would be used in claims settlement? Now you will recall that when Jack Lyndon was here the other day, he said an amount equal to 9.7 per cent of premiums was used by the industry in the actual cost of settling claims. I can go back and read that out to you.

Mr. LaPalme: I remember that.

Mr. Swart: You remember that. In your case, would that have been about the same? In other words, under losses incurred, would there be 9.7 per cent or could you tell me what--

Mr. Cartmell: You are talking about the claims expense--

Mr. Swart: Yes, claims expense, which is included in that if you follow--

Mr. Cartmell: It depends on how you divide it. We have allocated expenses which you can tie to a specific claim, lawyers' fees, things like that.

Mr. Swart: Yes.

Mr. Cartmell: And we have unallocated expenses, which are head office heating and salaries. Our unallocated expenses are roughly about five per cent of our premium.

Mr. Swart: Your unallocated--

Mr. Cartmell: Our unallocated are about five per cent of our premium. The allocated I cannot recall from memory. That would be a dollar amount and in fact it would be included within the loss.

Mr. LaPalme: It is included in the loss.

Mr. Swart: I know it is but I want to know what amount that was included in that loss.

Mr. Cartmell: We can find out. We just do not have it here.

Mr. Swart: I would like to have that, too. As we are considering this bill next week we should get this fairly quickly. I would like to have it as soon as possible for the committee.

The next question I wanted to ask on this page--and that perhaps will be the last one or we will be running over time. The others want to ask questions. The investment revenue from insurance operations you have listed here as \$3,273,000 out of premiums earned of \$45 million. You can express this in a great many ways, but you will recall also that Mr. Lyndon expressed the average investment income as a percentage of premiums earned, not that I asked him to do it. That was the way he put it in his press release. And he pointed out it was 12.8 per cent. This is substantially less than that.

Without prying into, maybe some--

Mr. LaPalme: There is a formula, Mr. Swart. We follow an Insurance Bureau of Canada formula and I can read you the formula. I knew you would ask that question.

Mr. Swart: Perhaps I could finish my question. You may have anticipated it, but why would yours be very substantially less than the average for the industry?

Mr. LaPalme: First of all, when we assign on a prorated basis, our capital gains or the investment revenues, we use a formula which is ascribed to us by the Insurance Bureau of Canada. We take all investment income earned, arrive at an average capital which is basically the opening balance and the closing balance, divided by two. For each class, take the unearned premium reserve and unpaid claims. Then we reserve and we arrive at an average reserve, based on the very same formula. Then we determine the yield that we get as a result of our investment portfolio and apply the yield to the average surplus and then, of course, distribute it equally.

So, in giving you these figures, these are the exact figures that flow from the analysis of profit and loss of Canadian business by major class, filed annually with the IBC and the provincial superintendent of insurance. So we are following a formula and we allocate these dollars by line.

Now if you were to ask me, "Serge, what was your total investment?" I can give you that.

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Mr. Swart: No, it is not really related to my question. I am sorry if I did not make it clear. I am wondering why there is the great contrast in

return on investment, on average for the auto insurance industry, as reported by Jack Lyndon, and what you show here, in relationship to premiums. That is the way he stated it. Do I make my question clear? Do the actuaries understand?

Mr. LaPalme: I cannot speak for Mr. Lyndon, but I can tell you that of all our investment income, excluding capital gains, we have allocated to automobile close to 40 per cent. That \$3,200,000 is exactly 37.5 per cent of all investment income generated in that year.

Mr. Swart: That still does not answer my question. You must be concerned about this yourself, I would think, as the president of this company. If the industry generally is getting--I believe his survey was for the 20 top insurers and that would include you in Ontario--

Mr. LaPalme: Yes.

Mr. Swart: Would you like me to read to you what he stated?

Mr. LaPalme: Yes, I would like to get exactly what he said. If I can answer it, I shall. Are you talking about the return on investment specifically?

Mr. Swart: I am talking about the return on investment, related to--

Mr. LaPalme: Are you relating it to equity?

Mr. Swart: He related it to the premiums. I have it right here. Let me just read you what he said. "IBC said that for every premium dollar collected, 12.8 cents was earned in investment income."

What he is saying, in effect, is that he relates that investment income to the premiums collected in that year, which was \$3 billion total in Ontario.

What you show here, a return of \$3.27 million, whether you have gross premiums written or premiums earned, is not much more than half of what he says is true for the industry in Ontario. I just want to know why yours would be so much less.

One set of figures or the other is wrong, or else you have not got your money invested in a good spot.

Mr. LaPalme: As you are aware, we are highly regulated as to what types of investments we, as an insurance company, can have.

Mr. Swart: So are the other insurance companies, as you will recognize. I just want to know why. If you cannot give an answer to me today, perhaps you can give that in the report, too.

Mr. LaPalme: I could give you an answer with respect to our return on equity, which is basically our return on our policyholder surplus. I can give you an answer with respect to the rate of return by types of investment we make. We, as a company, have not measured the return with respect to the actual premium earned.

Mr. Swart: This is my last sentence, Mr. Chairman. Can you send that to us? I got that figure from a press release put out by the IBC, dated June 4, 1986. He did not deny that. When he was here, he agreed to that.

When I get those two figures, one which is only half of the other one, I have to suspect one figure or the other, because I do not think your company would settle for only half the return on investment.

Mr. LaPalme: You are correct, or I would not be here long.

Mr. Swart: You would not be here.

Mr. LaPalme: Having said that, however, I do not believe, with the greatest respect for Mr. Lyndon, that he did have the statistical data available and in front of him when he answered the question.

Mr. Swart: I am sure they would have when they put out this press release.

Mr. LaPalme: Mr. Swart, with the greatest respect, I have our information here in front of me and when it comes to speaking to our return on equity, I can honestly tell you that in 1984 it was roughly 6.4 per cent. In 1985, it was negative, totally negative. In 1986, it was nine per cent. In a high-risk industry such as ours, you would have to agree that a nine per cent return on equity is certainly not unrealistic.

Mr. Swart: If you can answer that question, I would like to have the answer, but I would not want to do anything here that would jeopardize your position as president of that company.

Mr. LaPalme: Is that correct?

Mr. Chairman: Thank you.

Mr. Runciman: I am wondering if the witnesses can indicate how 1987 looks. You must have some preliminary indications in terms of your 1987 experience. Has there been an improvement in the overall picture or does it look like you are still going to experience considerable losses?

Mr. LaPalme: We believe the 1987 experience will fare slightly better than 1986. Having said that, automobile was extremely bad in 1985, as you are aware, though somewhat improved because of significant premium increases which flowed to earned in 1986 and then subsequently in 1987 and 1988. We think 1987 will be a better year, but with the generosity of government in having given us four per cent in 1988, suffice it to say that whatever gains we have made will fast deteriorate, and are deteriorating, in 1988 and then subsequently into 1989.

Mr. Runciman: You are suggesting you are going to suffer another loss in 1987 and the prognostication is not good for 1988.

Mr. LaPalme: In automobile, most definitely.

Mr. Runciman: You said 53 per cent of your business is derived from auto. How is the rest of the business doing? I hope it is faring better.

Mr. LaPalme: With respect to automobile--and you can always draw one exception in a group of 100 and some companies--if we take it that the industry average now on automobile loss ratio is at about 81, 82, 83 per cent and add to that an expense factor of roughly 27, it stands to reason that the loss cost will fare anywhere between 106 and 107. While there could be a little bit of money after investment income in capital gains, there will not be very much.

Mr. Runciman: I was specifically referring to Gore Mutual and the other 47 per cent of your business. Obviously, it is carrying you.

Mr. LaPalme: That is exactly correct. Our loss ratios in the non-auto lines of insurance are far better than they are in automobiles, specifically with respect to commercial property and habitational lines.

Mr. Runciman: This is an excellent report; I want to compliment you on it. It is very comprehensive, one of the most comprehensive we have had tabled, and there is not too much that I disagree with.

On page 12, in the second-last comment, you say "...we cannot totally abdicate the price-setting responsibility to a third party." That is not qualified at all; "we cannot abdicate." It appears that unless the government makes a dramatic turnabout in the next couple of weeks, you are going to be faced with a rate-setting authority, but you are saying here very unequivocally "...we cannot totally abdicate the price-setting responsibility." If the government proceeds, as we feel it is going to do in this respect, what does this mean to you? I am looking at the strong language.

Mr. LaPalme: It is strong. It was intended to be strong, for I have grave concern as to the viability of automobile insurance unless change is brought about. Obviously, if there are no tort reforms, which we have spoken to time and time again, if there is no limitation to the rights of people to sue as a result of traffic injuries, and if we are to be placed in a straitjacket premium-wise, I suggest that many chief executive officers of companies will have to reassess the role they play in the field of automobile insurance. It has been a nonprofitable line for the industry and, as our figures indicate, it has been subsidized by other lines of insurance.

I, for one, believe that every line of insurance should stand on its own, and the only way to address the problem in Ontario is to address that which causes premiums to rise. It is not physical damage and it is not a rate-setting board or a rate review board; it is addressing the issues which cause premiums to increase, and those are bodily injuries and the litigious attitude of our society. We have to find a way around that.

May I add this: Having given some 30 to 36 speeches on the issue of no-fault insurance in the last year and a half, I suggest that I have spoken to audiences who all perceive the need for reform and are willing to have reform, in various degrees, none the less. Having said that, there is a mood for change in Ontario, and I believe this government should respond to it.

1530

Mr. Runciman: This is one of the areas where I have problems with the witness--not only the witness but the industry--in terms of looking at no-fault as some sort of panacea.

You have talked about the shock that is going to set in if this government legislation proceeds in terms of rate increases that are just going to have to take place, but the next step in the government's program here, as I see it, is the institution of a comprehensive no-fault program. If they do proceed in that direction, in conjunction with a rate-setting board, do you see that having any impact in a positive way on rates?

Mr. LaPalme: I believe the introduction of a no-fault mechanism cannot help but reduce the pure cost of bodily injury premiums by anything

from 15 per cent to 20 per cent. I view that as an offset, should the government continue and pursue with its redistribution of premiums, failing which, we will be faced with increases to the masses and absolutely no offset.

Mr. Runciman: What you are saying is that no-fault can perhaps help the premium illness, but it is not going to cure it. You are still going to be faced with some--

Mr. LaPalme: What we require, which, in my opinion, is even more significant than smart no-fault, for it has a universal application, is tort reform.

Mr. Runciman: OK. I guess I have less trouble in this respect with the government's position because I think at least the government is being consistent and I find an inconsistency in respect to the insurance industry's approach to this where you are talking about risk classification changes and the bad drivers being given a benefit and the good drivers having to face increases because of the proposed risk classification changes. To me, that is somewhat akin to the no-fault situation as well where you are really suggesting that there is no responsibility for your actions.

Mr. LaPalme: What I have advocated is that the right to sue not be totally abolished as a result of a traffic injury. It should be retained in cases of serious impairment, serious disfiguration and death. But being that I believe it is possible for all persons, be they at fault or not at fault, to be injured in a traffic accident, then in the context of social evolution, all persons should be compensated up to a certain level, regardless of fault. In so doing, we eliminate this arduous process of legal battles which has but one result and which is clogging our courts and increasing the costs of automobile insurance.

Mr. Runciman: You are talking about a fairly significant threshold too when you are talking about--

Mr. LaPalme: I am talking of a verbal threshold, not a quantified threshold.

Mr. Runciman: We just had this press release or press clipping circulated to us earlier today, and the parliamentary assistant may want to comment on it. Apparently in British Columbia, they have instituted something called the BC International Commercial Arbitration Centre and disputes that can take years getting to court are now being settled by mediation in a matter of days. A case that takes two to three days of court time and \$150 an hour for the lawyer can be handled in an average of four hours at a \$450 cost to each party and a four-hour mediation. They feel this is going to have a significant impact on expenses, dropping them down.

I guess I would like to hear your reaction to that kind of approach. You know I have some serious problems with comprehensive no-fault.

Mr. LaPalme: The alternative dispute mechanism is a known mechanism within the judicial and injury environment. Would it have an application in Ontario? Most definitely. It was certainly part of the Insurance Bureau of Canada recommendation, and one which I support. Part and parcel of the reform is the establishment of an alternative dispute mechanism, meaning alternative to the judicial process where we go through mediation rather than need to await what we now call pre-trials, which for all intents and purposes tend to procrastinate the settlement of a loss rather than accelerate it.

Mr. Runciman: This kind of approach is attractive to your industry.

Mr. LaPalme: It would be, definitely.

Mr. J. B. Nixon: In reference to Mr. Runciman's question related to the article from the Vancouver Province, I would like to make a point that the alternative dispute resolution mechanism, arbitrations, mediations and so on, was something highlighted by Dr. Slater in his report as needing attention. In fact, the Attorney General (Mr. Scott) has recently announced the creation of an international commercial arbitration centre in the city of Toronto. He announced it towards the end of the last session, so we will have one up and running in Toronto, as I understand. Am I wrong?

Mr. Hampton: It is an arbitration centre. It is not an international commercial one. I believe the recommendation was--

Mr. J. B. Nixon: It is an arbitration centre in Toronto.

The second thing is that Mr. Justice Thomas Zuber of the Supreme Court was commissioned by the Attorney General to study court reform. He has made major recommendations to do with court reform, some of which have been commented upon by the insurance industry among others as a solution to the clogged courts, a way of expediting matters, having them dealt with much more quickly than at present. Mr. Justice Zuber did make recommendations to facilitate or allow the increased use of alternative dispute resolution mechanisms. I expect the Attorney General to make his announcement on those matters soon.

Mr. LaPalme: May I add one comment to Mr. Nixon's on Mr. Justice Zuber's recommendations with respect to the fusing or joining of our two lower courts. In my opinion, that will have a tendency to forestall the eventual settlement in that, as we see with pre-trials, where lawyers today are hesitant to negotiate out of whichever fears, which I cannot understand, but await a pre-trial to have a third party decide on the quantum or liability dispute, I believe we would find the same scenario with the joining of courts. Again, we are telling the public: "Yes, you can go to court now. You do not need a lawyer but you can go to court and the court will decide." It does not address the issue of, first, cost containment and, second, the acceleration of the settlement, which we are looking for.

Mr. J. B. Nixon: We could talk about it later, but Mr. Justice Zuber does deal specifically with some of those issues and I think favourably, from your point of view.

Mr. Chairman: Mr. Hampton, I am going to let you ask a very brief question but we did have an agreement among the parties on a certain amount of time. We are well behind now, so it is going to have to be very quick.

Mr. Hampton: You indicated earlier that you thought your unallocated expense was about five per cent of, I guess, your premiums written?

Mr. Cartmell: Yes. It does not make much difference.

Mr. Hampton: You indicated that there is also an allocated expense.

Mr. Cartmell: Yes.

Mr. Hampton: The IBC does not break it down. They simply said about 9.7 per cent for claims adjustment in terms of expense for settling claims.

Mr. Cartmell: Yes.

Mr. Hampton: In a smart no-fault system, when only 9.7 per cent of premiums written goes towards claims adjustment--

Mr. LaPalme: No. You have the two things confused now. In a no-fault environment, you would not necessarily have, as we have today, anywhere between--I am guesstimating--20 per cent to 22 per cent of costs, which go to the file on an allocated basis, which represents legal costs.

When we say allocated expense, they are those expenses related to the loss adjustment which is coded to file. Then we speak to the unallocated which, in fairness, is an arbitrary percentage which the insurer charges for the people requirements, the space required and all of those indirect expenses; that is cumulated into a percentage which goes into what we call the unallocated claims expense. The allocated expense, I suggest, is greater than the unallocated expense.

1540

Mr. Hampton: You have indicated five per cent for unallocated expense. You have not given us a number for allocated expense, so I am going back to the IBC numbers. They talk about 9.7 per cent for claims adjustment, claims settlement, they are the same thing. My question is, how would smart no-fault allow us to make considerable cost reductions if only about 9.7 per cent of the premium dollar is tied up in claims settlement?

Mr. LaPalme: I cannot speak to the nine per cent, because I do not believe the nine per cent is accurate. I do not believe it refers to--

Mr. Chairman: I think that answers Mr. Hampton's question because it was IBC that put it forward. I am going to exercise the chairman's prerogative and end it at that.

We appreciate your coming before us and giving us the information you did. I had a question I wanted to ask you but in light of the comment I just made, I am not going to. I will ask that question of the actuary coming up next.

We now have Irene Bass. Perhaps you would identify yourself and the other two people for purposes of Hansard.

WILLIAM M. MERCER LTD.

Mr. Hall: My name is Gordon Hall. I am vice-chairman of William M. Mercer Ltd. and a fellow of the Canadian Institute of Actuaries. My colleague to my left is Irene Bass, who is a principal of our firm and a fellow of the Casualty Actuarial Society.

William M. Mercer is Canada's largest firm of consulting actuaries, employing close to 700 professional and support staff. Our firm submitted the two-part study on the proposed classification system as well as a summary. We are pleased to make this presentation to you today and to answer any questions on the study.

Irene Bass has a very broad base of experience in the field of automobile insurance classification and rating matters. Her experience is on a North American basis and she will make the presentation. We will both be available to answer your questions.

Ms. Bass: I have just a few short opening comments that are based on the transcript of the January 12 meeting of the standing committee on the topic of the redistributive effects of a new standardized automobile insurance class plan.

To begin, the purpose of the study by William Mercer was to quantify on a very macroscopic level the redistributive effects of changing class and rating systems. It was a before and after type of study and it did not make an attempt to evaluate the system relative to other systems on the basis of actuarial soundness, nor did the study make an attempt to assess the system from the perspective of social acceptability. It was just an impact study.

The proposed classification and rating system stratifies the driving population into far more possible classification cells than is common practice today. The number of the cells may be well over 500 when the proposal is implemented, and there are maybe 80 or 90 possible combinations of cells today. For that reason, it is impossible to estimate exactly what will happen to the general driving population, for now there is no such thing as the bulk of the driving population as a lot of different cells have had to be created to take into consideration vehicle use, annual distance, driving record and years of driving experience.

The actual costing of the proposed system, performed either from the perspective of actuarial soundness or from the perspective of social acceptability, must be completed first to exactly measure these changes. I would like to mention that for the purposes of comparison in this study, we assumed that the same aggregate premium will be collected under the proposed system as has been collected under the proposed system as has been collected under the current system and that this study is independent of any sort of basic rate change. The methods we used, I think, should be described a little bit right now.

The methods do not depend on a system of weighting. There had been some mention in the transcript of how much of a weight was assigned to driving record, how much was assigned to vehicle use and so forth. The way the system rates vehicles right now is to assign factors for each of these rating characteristics and then to multiply them all together, and that is how you get your premium in the end.

In as much as the driving experience factors can vary up to about 2.2 and vehicle use and annual distance can vary up to maybe about 1.3, one would say that the number of years of driving experience is relatively more important in the rating scheme than the vehicle use and the annual mileage because you would compare a rating factor of 2.2 with a rating factor of 1.3, but in the end, one would multiply those to get the final answer.

There was no real weighting process in the sense that 50 per cent of the premium comes from experience and 20 per cent, for example, comes from vehicle use. It is, rather, this multiplicative system that is a common algorithm for pricing and rating, not only auto insurance but lots of different property and casualty insurances.

The factors we got were derived from a number of different sources. It is important to remember that this system has not been priced yet. We do not have the final answers in order to tell an exact before-and-after on this. What we had to do was use information that was given to us by the ministry. They had proposed factors for a number of events and we used those.

Massachusetts, as you know, has a system that has eliminated age, sex and marital status in rating and uses, instead, number of years of driving experience. We used that information for the relativities within the class. We did not use Massachusetts as the base cost, because that probably does not apply to the situation in Ontario. We got the relativities from there. We also looked at the relativities that are in place now through the Insurers' Advisory Organization and were able to get some fairly good estimates of what we think these would look like under the proposed system and then we could compare the current with the proposed.

The other part of the study concerns itself with this little term "off balance," which is simply a scaling factor. What happens is, if you take a system of rating factors today and substitute a new system of rating factors, you may generate more or less premium. When one changes classification systems, one would not want to generate more or less premium simply by redistributing it.

For example, if you look at the driving rating factors right now under the IAO, you can vary from a rating factor of about 0.6 to a rating factor of about 1.3. Under the new system, those factors become from about 0.8 to about 1.8. Under the new system, they are higher, but we would not want to generate more premium, so one would have to scale down the base. We have made an attempt in this study to quantify what that is. Otherwise, just substituting one set of factors for another set of factors can give you very misleading sorts of answers.

I would like to ask for any questions you may have at this time.

Mr. Chairman: Before I open it up to the members and because I missed out the last time, I wanted to ask you a question. It was raised through the previous delegation. Is it possible to make a comparison between unmarried male drivers under 25 and unmarried male drivers over 25?

Ms. Bass: Make a comparison in terms of what? In terms of how much premium they will pay?

Mr. Chairman: Yes.

1550

Mr. Swart: Just on a point of order, Mr. Chairman: I may be the only one of the committee members, but quite frankly I do not understand some of the terminology. I wonder if we could just ask some basic questions first, after you have finished your submission. I would like to make sure I am understanding this, not on any political implications or anything about the issues but just on factual information and interpretations, because I am lost on some of them. I may be the only one.

Mr. Chairman: OK. You do not have any difficulty, though, with my asking that question, do you?

Mr. Swart: No. I only said that because it seems to me these terminologies that are used--what this actually shows is important in answering your question and I wanted to raise it at that time.

Mr. Chairman: Ms. Bass, I think you were prepared to answer the question at that point.

Ms. Bass: Our study does not deal with the absolute dollar amounts of change, but simply says, if we have a certain risk today, how much is the change going to be under the proposed system? It does not start with a definite dollar amount for an insured risk today. To compare drivers over 25 with drivers under 25 could be done, but that is not part of this study.

Mr. Chairman: Let me just follow up on that further. Is it possible to compare unmarried male drivers, say, at age 20, and unmarried female drivers of the same age? It seems to me that a lot of what the previous delegation was saying was premised on your being able to do that, and therefore there would be this horrendous change.

Ms. Bass: Yes. There are insurance statistics that do that, because today they are captured that way. One can compare the underlying costs associated with those groups and one can surely compare the underlying premiums that are associated with those groups today, because they are rated that way.

Mr. Chairman: It is interesting because in a case that was referred to, which was Bates and Zurich Insurance Co., Lee Alexander, who was the vice-president and chief actuary of the Insurance Bureau of Canada, testified that it was not possible to make a comparison between unmarried male drivers under 25 and unmarried male drivers over 25.

Ms. Bass: The unmarried males over 25 are lumped in with a lot of other people, but you could certainly compare their premiums because their premiums are going to be the same as the premiums of the other people in that class. You would have to go through a lot of sorting, and probably the information would not be good to do that, but you can certainly compare the premiums of what they are paying.

Mr. Chairman: He went on to say nor was it possible to compare unmarried male drivers aged 20 and unmarried female drivers of the same age.

Ms. Parrish: Perhaps I could clarify this, because I do not believe Ms. Bass would be familiar with the Bates and Zurich case. The reason it is difficult now to statistically compare unmarried male drivers under the age of 25 and unmarried drivers over the age of 25 is that the statistical base in Ontario collects statistics for unmarried men under the age of 25. After you reach the age of 25, they no longer care what sex you are or whether you are married. That ceases to be a rating factor.

Mr. Chairman: So they do not care.

Ms. Parrish: They care for other reasons, but they do not collect statistical information. It is difficult to compare apples and apples. What you have to say is, you have one group that consists of unmarried men under the age of 25 and you have another group that consists of all people over the age of 25--men, women, married, unmarried. That is where the statistical problem comes in. For instance, you cannot tell whether you are measuring age,

sex or marital status once somebody gets to be over the age of 25. That is the statistical problem.

Similarly, under the current statistical plan in Ontario, there are more breakdowns. For instance, marital status for men has been traditionally more important than for women. We collect statistics in Ontario now about unmarried men and married men, whereas for women, again, the issue of marriage is not significant. What we have, therefore, is a comparison among unmarried men, married men and married and unmarried women.

Mr. Chairman: Thank you. That was just something I could not quite come to grips with.

Mr. Kanter first, then Mr. Swart.

Mr. Kanter: If he wants to go first on some interpretation questions, that is fine.

Mr. Swart: What is your interpretation of "event"? I should preface this. I have read this. I have read the documents. "Event," as I understand, includes either loss of points, driving infractions or accidents where you are at fault. Is that right? But how do you classify three events, four events? We had some interpretation here the other day. If I am convicted of going 10 kilometres an hour over the speed limit, is that an event? I wonder if you can give me the interpretation of "event" so we can understand what this means to people.

Ms. Bass: "Event," as we use it, was that which was defined in the proposal of the ministry. Perhaps Ms. Parrish could define that more exactly for you.

Ms. Parrish: In very short terms, we call an event an at-fault accident, and obviously there are a lot of rules about what is an at-fault accident. In addition, we have events for Highway Traffic Act convictions and Criminal Code or dangerous driving convictions. We have three categories. In the most severe category, impaired driving or Criminal Code driving, convictions are equivalent to two events. We then have a sort of middle category that includes offences such as careless driving and Highway Traffic Act offences which are equivalent to one event. We then have a more minor category in which you have to have two incidents in order to equal one event.

I will not get into a long litany of things like failure to yield the right of way in a school zone and so on. In short, it is tied somewhat to the demerit system, so that if you do not receive a demerit point on your licence it is not an event for which the company can charge you. But there is a gradation, recognizing that it is, I guess in the judgement of society, far worse to be a convicted impaired driver than to be a person who has two speeding tickets for which he has gained demerit points.

Ms. Hart: Following up on that, you said that an event was an at-fault accident. I am not entirely clear. Does that include an accident where the driver is not at fault but the claim is made against the driver's insurance company because the other driver disappears or is underinsured or for some other reason?

Ms. Parrish: No. There has to be an at-fault accident of the vehicle and the driver of that vehicle. You do sometimes have a situation where I lend

my car to you, you drive it off the road, you are at fault and it comes against my insurance. But merely because the company paid a claim--for example, you are the victim of a hit-and-run accident--does not make it an event. The company has to pay the claim, of course, because there is no other driver, but the system that outlines this event specifically says that it must be an at-fault accident and being the victim of a hit-and-run accident is not an at-fault accident.

When you see the final regulation which the ministry puts out for consultation--this committee is really for that, to get an assessment of what people think does constitute fault. But certain things are deemed not to be at fault, such as being the victim of a hit-and-run accident.

Ms. Hart: That is interesting because the insurance companies now, if the claim is made against them, charge you with being at fault.

Ms. Parrish: Some do and some do not. There is a difference in procedure.

Mr. Swart: I wonder if we could look at the document which is submitted by your company on private passenger auto and taxicabs. I am talking to Ms. Bass. Look at exhibit 1, which you refer to in the summary. I presume this is your summary. As I understand from reading this summary, you have and you have had to--and I understand this--pick arbitrary classifications for the various exhibits. Here you have a six-star driving record, six years claim-free, maximum two minor violations in the last three years. That person has had no claims where he had been at fault and has had two minor violations. At the present time, for every \$100, that current class we have there, we can use that as \$100 if we wish? Is that right?

Ms. Bass: That is right.

1600

Mr. Swart: So for pleasure use, a person who now fits into this top category in the new system--and the new system is based primarily on the Massachusetts system, is it? You use that as a model?

Ms. Bass: No. It is based on a combination of things and that is part of the model.

Mr. Swart: OK, I want to ask some questions on that in a few minutes. That person who has had 35 years' experience, low mileage and is five years event-free would pay \$88 for every \$100 he is paying now. Is that correct?

Ms. Bass: That is correct.

Mr. Swart: Then if we go down to, say, pleasure use, 7-14 years, medium mileage, two events, that person would pay \$188 for every \$100 he is paying now, using the black line.

Ms. Bass: That is right.

Mr. Swart: Which is the off-balance. I understand, I think, what off-balance is: that if you put all these proposals into place, you would get a lot more total revenue so you have to reduce it to the amount of revenue which you anticipate you would receive.

Ms. Bass: Exactly.

Mr. Swart: And you think that 20 per cent is the closest.

Ms. Bass: That is our best estimate.

Mr. Swart: OK. If I could have my paper back, I have a question I want to ask about something I do not understand in this paper based on that.

Ms. Bass: In the summary?

Mr. Swart: The summary. If you would turn to page 4, please, item 2. I understand your recommendation there. I also understand, of course, that in this paper you do not recommend the 35 years' driving experience. You maximize it. You recommend maximization at six or something of that nature.

Ms. Bass: I would say it seems to maximize at six and what happens at around 35 or 40 years of driving experience is not so much a derivative of experience. By then the person's driving habits have changed substantially because now that person typically is 55 to 60 years old and generally does not engage in the same kind of driving habits of somebody younger. There is a lot of evidence that the more senior driver does deserve some sort of discounted rate.

But what we are suggesting here is that there really is not much of a difference between eight years and 16 years. Somewhere you have to draw the line and say there is not much difference, because if there is a difference between five years and six years, maybe there is a difference between five and a half years and six years. You can go and create lots of these bands.

Mr. Swart: Are you recommending in this report this type of experience as the factor in determining the rates? In other words, 35 years' experience or--I understood you to recommend in here that they not use that length of experience, that you reconsider the draft, I suppose, on a classification. Did you not recommend that?

Ms. Bass: We are not recommending anything in general about using length of years of driving experience, but given that this is what is being proposed, our suggestion would be to take the class of seven to 15 years of driving experience and merge it with the class of 16 to 34 years of driving experience, because we do not think you are going to find very much difference between the driving habits of those two groups. Why have two classes when you can deal with one class? The system, as proposed, has an awful lot of classes. If we can do something from a logistical point to minimize that, it might be of value.

Mr. Swart: That is what I understood you to say.

Ms. Bass: That is right.

Mr. Swart: What you really have here is based on the recommendations in the proposed classification and not necessarily on your recommendations--

Ms. Bass: That is right. The proposal was given to us and we have taken that and said, "This is what is going to happen before or after." We make no judgement pro or con about the proposal.

Mr. Swart: I come now to the statement that I do not understand in your report, which is at the bottom of page 5. The paragraph reads:

"It is desirable to keep the total premium constant while redistributing it among the various classes. Therefore, the base premium must be scaled down." I understand that. "This can be accurately accomplished only at the time the rating factors are actually selected, so we have quantified a range of likely scale factors off-balance, and these are represented here by three bars." I understand that. "The longest bar represents no-scale factors, the top and middle bars represent possible scale factors, with the middle black bar representing our best estimate of the off-balance." I understand that.

It is the next sentence I have a problem with. "The off-balance keys of 20 per cent and 40 per cent do not represent the changes to the premium." I thought, in fact, they did.

Ms. Bass: You are correct. They represent our estimates of the aggregate premium, so we would want to scale them back. They do not represent the change that the particular insured would have.

For example, if I may again reference exhibit 1, what you see here is that under the 20 per cent off-balance scenario, the driver on the top bar would have about a 12 per cent reduction, because his premium would now relatively be 88.

All we are trying to say is that the 20 per cent off-balance does not mean that the driver is going to get a 20 per cent increase or decrease, or the 40 per cent off-balance does not represent the change to an individual driver, but rather represents our estimate of the aggregate change in the total premium collected that we would want to back off.

Mr. Swart: I understand. I guess it is just unfortunate it is connected right in with that paragraph. It left me with a misunderstanding, or at least I could not understand it.

Ms. Bass: I guess that is why I am here today.

Mr. Swart: That rather clears up that interpretation for me. I may have some questions I want to ask later, but there may be others who want to get an interpretation. If you will let me get back on again, which I guess is what I am saying to you, I will ask some substantive questions.

Mr. Chairman: I will think about that. No, we will let you back on.

Mr. Kanter: My questions relate perhaps more generally to your experience as an actuary and an insurance manager rather than quite so specifically to interpretations of the report, and they do relate specifically to the document on the draft classification system and more specifically--I am sure you have seen it; I do not know if you have it now--to the risk factors the ministry proposes to take into account.

My first question relates to the question of the bonus-malus system that has been referred to before the committee on a number of occasions. I understand the ministry's proposal takes some account of bonus-malus under the claims experience situation. It has been suggested that some jurisdictions--and I think we have something from legislative research here--take more account of or almost entirely are based on the bonus-malus system.

My question is a very general one in terms of any comments you might have with respect to the bonus-malus system, first, with respect to actuarial soundness and, second, with respect to social acceptability. How does a pure bonus-malus system stand up on those two bases?

Ms. Bass: I really do not want to speak about social acceptability. I would love to, in a sense, but I do not think I have any particular expertise to talk about social acceptability.

Mr. Kanter: None of us probably has either.

Ms. Bass: It is accepted in many European countries. It is not a bizarre idea that was just created.

Mr. Kanter: I am interested in your observations. Do not feel inhibited is what I am suggesting. I do not think there is any reason you should not give your personal views or whatever. I am interested in your comments and observations. We will ultimately have to make the tough political decisions, together with the regular ones.

Mr. J. B. Nixon: I do not want to interrupt, but the witness was brought here as a professional witness retained by the ministry to give professional advice.

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Mr. Kanter: She may have been retained by the ministry for that purpose. Undoubtedly, she was.

Mr. J. B. Nixon: That is the capacity in which she was called.

Mr. Swart: He is saying you are running up the government's bill.

Ms. Bass: Talk fast.

Mr. Kanter: Maybe that is your concern; I am not quite sure.

Ms. Bass: I am happy to talk about the actuarial side of it.

Mr. Kanter: Just one moment. I can appreciate why she was retained by the ministry.

Mr. J. B. Nixon: And that is the capacity in which she was called.

Mr. Chairman: I think Mr. Kanter is understanding what Mr. Nixon is saying.

Mr. Kanter: I am not sure that she was necessarily called by this committee in that particular capacity.

Mr. Chairman: She is a resource person of the ministry.

Mr. J. B. Nixon: No one knew who was coming other than the consulting actuary who authored the report, who had been retained by the ministry to come here and respond to questions based on the report that was prepared, in her professional capacity, subject to a professional retainer. You could ask her about the Blue Jays and whether they will beat the Yankees.

Mr. Kanter: I think my question is considerably more relevant to her expense. I will put the question and let the witness answer it, however she wishes, in terms of the bonus-malus system, in terms of actuarial soundness and social acceptability. Let the witness answer it as she sees fit.

Ms. Bass: I would like to address the actuarial aspects of it on two different levels.

One is that basically in insurance theory one tries with classification systems to classify people in a predictive manner, that is, to be able to predict their potential for having losses. In some sense, a bonus-malus system fails at this, because you are one accident too late in all of this prediction stuff. You are trying to take the vast number of people who basically have not had an accident recently, wait until they have had an accident and then say, "Aha, now you should pay more," but it is really a retrospectively operating thing.

From a second perspective, there is substantial actuarial evidence--and I really refrain from using the word "proof" in any of these fora, because proof is just not applicable to a business environment--that a bonus-malus system is not a tremendously effective way of segregating people on a microscopic level.

Let me continue by saying there is some actuarial literature that deals with a study in which individuals with various driving violations were segregated from last year, if you had no traffic violations, one, two, three, on up to 10 or whatever. They then looked at these people the following year to see what kind of experience they would have. That is a fairly decent, controlled experiment.

They found that with the people with no tickets or events, and the people with one, their experience in the next year was substantially identical. There was not a lot of difference. There was some difference, but there was so much what they call overlap in the experience that they felt it was not a good way of segregating people.

However, when you start to move away from zero and one violations to two, three, four, 10, there was a lot of difference between the predictive values of zero and 10 violations. But it somehow gets a little muddled in between.

So there is a lot of evidence that indicates that in and of itself it is not the most perfect way, but no classification system really is. This is, of course, in the ministry's proposal, not the sole component.

Mr. Kanter: That is extremely helpful. I am wondering if I could just follow that up with a question in terms of any proposal to retain some sort of accident forgiveness. From an actuarial point of view, the best design might be to look at a limited form of accident forgiveness, perhaps forgiving one accident in a lifetime rather than allowing forgiveness of an accident every five years, as may have been the case with some companies in the past.

Ms. Bass: I think one accident in a lifetime would be very difficult to track. It would be very difficult to find somebody who is 58 years old and make sure that the accident they had when they were 17 was the only one that was forgiven.

On the other hand, with this whole idea of forgiveness, I believe the largest concern from an actuarial perspective is the consistency with which it is applied. In order to be actuarially sound, it must be applied evenhandedly. If you forgive the 55-year-old business executive for having a fender-bender, you must forgive the 16-year-old teenager for having a fender-bender. Otherwise, your data are rendered useless. You cannot figure out who ought to be paying what and who has claimed anything. It is not the concept of forgiveness or ignoring the first accident, but rather the inconsistency with which it may be applied that would cause me concern as an actuary.

Mr. Kanter: If I can just ask a further question, I see there are others who may have supplementaries--

Mr. Swart: I do want to pursue that same one on a supplementary.

Mr. Kanter: I am pretty close. Let me just go one more.

Mr. Swart: Maybe you will ask it.

Mr. Kanter: If this committee or the Lieutenant Governor in Council were to recommend by regulation some system whereby either an initial accident or some accidents within a certain time frame were forgiven on a uniform and consistent basis, would it not also be important to continue to record those accidents from an actuarial point of view so that we had information if down the line it was found that--

Ms. Bass: Yes. Otherwise, how would you know it was the second accident the person had?

Mr. Kanter: It would be important to design a system that actually would record everything while people still might be forgiven certain events over a certain time.

Ms. Bass: It might not enter the rating system.

Mr. Swart: That was my supplementary.

Mr. Chairman: I have not seen a hand over there.

Mr. Runciman: We were busy talking about the various--

Mr. Chairman: I thought maybe you were discussing Mike's handicap.

Mr. Swart: If I might just go back to some of the general questioning, first, would you turn to exhibit 2? It seems to demonstrate something there under the present D-3 category. This relates to the weighting that is given on experience. If we refer to the first one there, this is for an adult with three years claims-free and D-3 classification: pleasure use, low mileage, 35-plus years' experience, three years event-free. His premium under this system would be set at \$56 for every \$100 now paid.

A young person or any new driver--my legislative assistant, for instance, has not yet got three years' experience and we call her a new driver, but under pleasure use, low mileage, three years event-free--exactly the same qualifications there--three to six years' experience, even though she has not had an accident at all, she would pay \$146, more than two and a half times as much as the person who had 35 years' experience, myself, if I was claims-free for three years. My interpretation is correct on that, is it not?

Ms. Bass: Yes.

Mr. Swart: That is based on the proposals under the draft classification?

Ms. Bass: It is based on what we think will be the prices applied to that proposal.

Mr. Swart: Yes, under the draft classification.

Ms. Bass: Again, I have to iterate that this system has not been priced yet. We have given our best actuarial estimate of what we think the prices are going to come out to be.

Mr. Swart: I understand that is not your particular recommendation there. That is based on the classification you were given.

Ms. Bass: Right. That happens because now this person is thrown into a class which is dominated by 19- to 21-year-old people.

Mr. Swart: Yes. That leads me directly into my next question. The classification which you are obviously given almost replaces experience for age?

Ms. Bass: Yes.

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Mr. Swart: You replace experience for age. Experience is a much, much greater factor than even driving record. There are others here. Even if you have four events and you have a 35-year driving record, you do not have that kind of increase. That is true, is it not?

Ms. Bass: That is right.

Mr. Swart: So, in effect, given that most new drivers are young people--I do not have statistics on this, but I suppose that 90 per cent of people who start driving in this day and age start before they are 25.

Ms. Bass: That is right.

Mr. Swart: Maybe 95 per cent.

Mr. Chairman: Some at eight years of age, as we heard previously.

Mr. Swart: You speak of your family and I will stick with mine.

Mr. Chairman: I do not have any eight-year-olds.

Mr. Swart: Neither have I.

In effect, we are really putting this same kind of penalty back on young people. We are not doing it because it is age and we are eliminating the sex category for the young, but in effect--and this may not be a question that you want to answer, but I think it is a fair one--age is still going to be the major factor in causing people to pay high rates. I can rephrase that. It will be the young people mostly who will be in the very high rate category because they have had very little driving experience.

Ms. Bass: It will definitely be mostly populated by people who are younger. However, it also will have anybody in there who learned to drive when older, so everybody will have to go through that zero-to-six-year window of pain, so to speak, of paying high premiums. There is no question. You want to say that the cost will still be borne by the young. I would hope to say that the cost will still be borne by those whose expected costs are high, and so should be borne.

Mr. Swart: You mean as a classification?

Ms. Bass: Yes.

Mr. Swart: Which is a young classification, so we are right back where we started from as far as age is concerned to a very substantial degree. If we use these figures here, which are 2.5 times as high, we are right back with young people paying as much. I realize all these are just proposals, but if we use these proposals, we are right back with young people paying as high rates probably as they are paying at the present time.

I want to ask another question, if I may. I do not know whether there are any supplementaries on that. Everybody else may understand this whole system better than I do. Have you prepared figures--and I presume that you would have in reallocating all this--on what percentage of claims settlements in Ontario are borne now by the males under 25? Let me take that category. Do you have those statistics?

Ms. Bass: I do not have them..

Mr. Swart: Does Mercer not have those statistics?

Ms. Bass: No. I think the insurance industry certainly would; probably the Insurers' Advisory Organization has them. I will be meeting with a committee made up of members of the IAO and the IBC next week to discuss this report with them.

What we have are the rating factors that the IAO promulgates for use. Inasmuch as those rating factors which determine premium relate exactly to the dollars of loss, then one can tell relatively how much more the younger drivers now pay than the older drivers, and it should be proportional to the relative dollars of claims that are paid on their behalf. But I do not have the statistics available to me.

Mr. Swart: You do not have those. You do not know in fact--what I am really coming at--how much it would cost, the total cost in Ontario to get rid of age and sex. Say age and sex were no longer factors and you brought--

Ms. Bass: The total cost to the insurance buying public will be zero because we have balanced it.

Mr. Swart: I am not making myself clear. We have to readjust the costs now that are being paid by young males in particular. That is one category. There are others. There are people in families, in a household. But we have to readjust those costs of young males who are now paying that much above the average. You do not know what the figure is that we have to readjust?

Ms. Bass: We know what the rating factors are, and the rating factors usually show a relativity of claim dollars. For example, this is memory so I am not exactly certain, but I believe that in Ontario the rating

factor for the 16- to 18-year-old unmarried males is somewhere around three. It is somewhere around that number. I could look it up easily but it is not really of much value for this exercise.

That would indicate that their relative cost per person is about three times higher than the base class which is the adult class, if it is priced according to that. I am assuming that they have priced these things relatively properly. That is how one would do it.

Mr. Swart: I assume that after Slater's report, though, it might not be the case.

Ms. Bass: That is why I am saying that.

Mr. Swart: He talked about statistics.

Ms. Bass: We have the assumptions underneath that. When the pricing is actually done for this, that is something that is probably going to be taken into consideration, the underlying losses, as much as can be determined now.

Mr. Swart: How many categories are there from 16 to 25? Say it is three. Is that rating available to us here from the superintendent of insurance or from you people or from anybody right now?

Ms. Bass: Yes. I have a copy.

Mr. Swart: Could I get that to have a look at it tonight?

Ms. Parrish: Do you want to see the green book? Is that what you want to see?

Mr. Swart: Is that the one that has the rating of the young person? I presume a mature adult would be rating one. Would that be right? The 16 to 18 group would be rating three from what you say. I am trying to get a handle on the total cost. I realize it is the rating but it is also with regard to any accidents they have or points they lose, the penalty rates. I presume that category has a lot more of those.

Ms. Parrish: I am not entirely sure what it is you want. I think what you probably want is a sense of what the current classification system looks like. For example, the current classification system has something called an 01. People in the trade know that an 01 is an adult driver, pleasure use only, etc., and that it is a relatively lower rating factor than class 06, which includes an adult driver with a secondary male driver under the age of 25.

Mr. Swart: Maybe I can explain what I want. What I really want to know is, if the young male drivers and for that matter the young female drivers had the same base rate as an adult driver, somebody 30 or 35, how much money would now be lost in revenue?

Ms. Bass: But they do not have the same base rate.

Mr. Swart: I know, but if they did have.

Ms. Parrish: In other words, if we put them all in the same class.

Mr. Swart: That is right, if they were put in the same class, and I

am not talking now about driving infractions or anything of that nature. I am talking about if young drivers were in the same base rate, how much money would be lost in revenue? Are those statistics available any place?

Ms. Bass: No money would be lost in revenue because now the rates would simply be averaged among the people in the classification.

Mr. Swart: I am not talking about that. I am just saying today.

Ms. Bass: I am not understanding the question.

Mr. Swart: OK. I did not understand you for a bit, so we are on a level playing field.

Ms. Bass: We are even.

Mr. Swart: Today in Ontario we collect about \$3 billion in total rates. The question I ask is, if young people are on the same base rate as the other 81 per cent, how much revenue would be lost of that total \$3 billion? Is my question clear this time? I think it is to Mr. Weir. I see him nodding his head.

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Ms. Bass: Let me reiterate what I think you have said and that is, "Without changing the current adult rate, what would happen if we charged young people the same as we now charge the mature people?"

Mr. Swart: Yes.

Ms. Bass: I now understand the question; the answer is I do not know.

Mr. Swart: Thanks a lot. Is that available then?

Ms. Bass: The insurance industry should be able to figure that out. I could figure that out if I had the right information available.

Mr. Swart: I thought maybe in adjusting these you had all of that.

Ms. Bass: No, I do not have that.

Mr. Swart: I wonder if I may, Mr. Weir--not here--do you have that information any place in your files, whether for this year or last year or anything of that nature?

The Vice-Chairman: Mr. Weir, could you come forward and sit in the chair so we can record you?

Mr. Weir: I do not believe that I have that information in my office. Ms. Parrish has been working on the classification system. I am wondering if we have that in the inventory.

Ms. Parrish: I do not believe we have that information off the shelf, in the sense that you would have to go through a lot of very theoretical assumptions in order to get to that level. What you are really saying is, what would be the effect of averaging all these drivers together at the low adult premium?

Mr. Swart: No.

Ms. Parrish: That is, what would happen if you did nothing but said all young drivers will pay the same as all adult drivers and changed nothing else.

Mr. Swart: I am only talking about the base rate. I am not talking about penalty rates.

Ms. Bass: The insurance industry should be able to figure that out. What we need to know is the exact percentage of young folks and we need to know the average premium that they pay and then that could be estimated, but I just do not have that available to me now. I could do that if I had the right information.

Mr. Swart: May I just explain this a little bit further. If you went to a system like they have in Manitoba--I am not talking about public or private system--where they do start with the same base rate, what would it cost? How much money would you lose so you would have to make up in some other areas? That is what I am trying to get at.

Ms. Bass: The thing is, I do not think you would do that. What would happen is, I suspect, one would not just want to maintain the mature driver rate and then take all those young drivers and put them in there at a much lower rate because you would lose money. What instead you probably would want to do is raise the rate of the mature drivers a little bit so that when you add the young people in, it averages out.

Mr. Swart: Yes, but I want to know, first of all, how much I have to raise the other drivers?

Ms. Bass: That is right.

Mr. Swart: That is why my question.

Ms. Bass: That can be done, but I just do not know what that answer is right now.

Mr. Swart: I wonder, Mr. Weir, would it be possible to get that for us, perhaps by tomorrow? Would that be too much? Could you try to do it?

Mr. Weir: I do not believe it would be possible to get it that quickly.

Mr. Swart: You do not think they would have that available at their fingertips knowing what has been taking place and that sort of thing?

Mr. Weir: I could not speak for the information that other people have, so I would not want to undertake to provide something that I do not have control over.

Mr. Swart: Can I ask you this? Would you try? We do not mind trying ourselves, but, coming from your ministry rather than from me with the very special relationship I have with the insurance industry, it might be easier for you to be able to get those figures and I think they are important for considerations here to know what kind of adjustments we are talking about. You in fact have done this but through a different method without getting that.

Ms. Bass: Since we did not have all of the computer information available from the insurance industry, what we relied on was current rating

plans. Inasmuch as they are mirrors of claim experience, they will tell us approximately. We were also attempting only to very roughly quantify this. At the time that it is actually priced, I think a lot of shirt sleeves are going to have to be rolled up and exact measurements made of these things.

Mr. Swart: That is right. Before those rates are set or before these classifications are put on.

Ms. Bass: That is right. A lot of people are going to be very surprised when they open up their insurance bill.

Mr. Swart: That is right. I wonder if I could leave that with you and if you could try to get that for us as soon as possible. I will maybe give you a call tomorrow on that. I will pass on further questions now.

Mr. Runciman: I am just wondering if I could stray a bit from the Mercer report. I was looking at Ms. Bass's biography. Are you an American resident?

Ms. Bass: I am. Yes.

Mr. Runciman: I was just wondering whether we could take advantage of the opportunity of having you here to talk about your knowledge of the United States experience, since you have had extensive experience in business. Maybe you have not touched on some of these areas. Texas was mentioned during the committee hearings as an area where there is a rate setting authority somewhat comparable to what the government is proposing here. Apparently, there are two separate systems running in a parallel fashion in Texas, I guess, one with rate setting and one outside of the rate setting process. I was just wondering whether you might want to comment on the Texas experience, how long it has been in existence, what impact it has had and what the future looks like and that sort of thing.

Ms. Bass: I have done a lot of work in Texas and am most familiar with it. I do not know when it began. There are 49 states; and then there is Texas as far as the insurance industry is concerned. They do operate very differently down there. You have given me a very broad category to talk on.

Mr. Runciman: Do you think it is good or bad?

Ms. Bass: Good or bad? Gee, I do not like those words.

It works. No insurance company really has pulled out of Texas. Their rate-making methods, I think, are reasonably OK. There is enough of a free market because, as you mentioned, there are the state-mandated rates; there is ability to deviate downward from them. There is also the ability to operate through these companies called Commonwealth Lloyd's, which have nothing to do with Lloyds of London, but I think they thought it was a nice name. They are essentially unregulated companies.

They are in the process of bringing that under regulation right now. What the state of Texas does is set a sort of maximum rate, and then everybody deviates downwards from there. So in a sense they have created a range of acceptable rates, but I do not know; is there something specific?

They have a lot of problems that are outside their rate making, such as the fact that the storms rip along their coasts and cause a lot of damage to property, and people keep going back there and rebuilding houses.

Mr. Runciman: I appreciate it. I guess the only comments we have had specifically have dealt with Massachusetts and some of the companies pulling out of there and that about 60 per cent of the auto business is in facility. That is the only comparable experience that we have had some testimony on.

Ms. Bass: The Texas industry is regulated, but the rating schemes are still very similar to the other non-Massachusetts states, in that they still do rate automobile insurance on age, sex, marital status, and stuff like that.

Mr. Runciman: Oh, they do?

Ms. Bass: Oh yes.

Mr. Runciman: OK. So Massachusetts is probably a better example.

Ms. Bass: It is about the only comparable example you will find.

Mr. Runciman: Have you taken a close look at Massachusetts at all, other than what you did for this particular study?

Ms. Bass: I have been involved with Massachusetts over the years, as I was employed by companies that wrote business there.

Mr. Runciman: How would you describe it, in three words or less?

Ms. Bass: On the situation in Massachusetts: The rating system they have I would characterize by using the word "plausible." I would have to say that any system that any state has, including Massachusetts, can be theoretically nice, wonderful, actuarially sound, and then when they apply it, something gets messed up and the whole thing goes to pieces. That can happen under the current system.

Mr. Swart: It has.

Ms. Bass: I did not want to say that.

It is really a matter of implementing it. I think there are a lot of things in Massachusetts that are much more of a problem than the classification system. I think the underlying base rates are contended to be too low. I do not suspect that too many insurers are out there saying, "Gee, this is awful that we have to rate men and women the same." I think that what they are saying is, "Gee, we are not getting enough money in the base rates to give us the kind of return we want." That seems to be the face of the argument today.

Mr. Runciman: OK. Thank you very much.

Mr. Kanter: Following on Mr. Runciman's question, I am wondering whether you have any comments on the impact of a rate setting system on competitiveness within the market and particularly on the ability of new firms to get into the market. Does a rate setting system have any impact on competitiveness that you have observed?

Ms. Bass: Boy, we have gone beyond this report.

Mr. Kanter: I agree. That is a question that is supplementary to Mr. Runciman's question; so I thought that since his was allowed, I would slip right into the breach.

Mr. Swart: Some people try to get them on their side regardless of who they are.

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Ms. Bass: I think you are getting into an area of public policy, really. If people want the government to regulate insurance and that is the way it is done, that is what the people want. If they do not want government to regulate insurance and want it to operate, then that is what it should be. In as much as there is a lot of government control, then yes, it does affect the free market operation of insurance companies. I am not trying to be evasive. I am not exactly certain what you are getting at, without wanting to make any statements on public issues or tell you my opinion of world economy.

Mr. Kanter: We are obviously interested in the impact, the effect, of a system we are attempting to put in place, and I was just wondering whether you had any observations as to the impact of similar systems in American jurisdictions, in terms of observations.

Mr. J. B. Nixon: Perhaps, just to make my point, I am not going to object to her answering your question, but Ms. Bass was retained to study the classification system proposal. I do not know whether you have even read the rate review bill.

Ms. Bass: Sorry?

Mr. J. B. Nixon: The rate review bill.

Ms. Bass: I do not think I did.

Mr. J.B. Nixon: So it is hard for her to comment.

Mr. Kanter: I would expect she would have had to be familiar with the classification system.

Ms. Bass: I am familiar somewhat with what is going on here simply because I have been informed, but I am really not an expert to speak on what is happening here. I am just one actuarial opinion also as to the workability of some of these things.

Mr. Kanter: I presume you are familiar with the classification system because I think your report is based on that classification system.

Ms. Bass: Oh, yes.

Mr. Kanter: The concept of the classification system is in effect in many American jurisdictions, in some cases rate setting and in some cases rate regulations, I understand.

Ms. Bass: Yes.

Mr. Kanter: I guess I was wondering whether you, as an actuary with some considerable experience in the American insurance industry, had any observations on the impact of such plans generally on competitiveness within the industry.

Ms. Bass: It is hard to really isolate that, because one could look at a lot of other factors other than regulation which might affect the cost

levels. It has been put forth that many states have very limited regulation; for example, California has very little limited insurance regulation for private passengers at least, but the rates there are relatively low, whereas, if you go to a state such as New Jersey, New York or Massachusetts, where there is very heavy regulation, the relative rates are high.

On the other hand, the population density is also tremendous in places like Massachusetts and New Jersey. New Jersey has the highest number of cars per mile of paved highway of any state in the United States. When you compare that to California, which has large pockets of more rural areas, you could say that that really contributes to it, and it is really not the regulation. It is very difficult to isolate the regulation. There are lots of examples.

South Dakota does not have much in the way of regulation. Its rates are relatively low, but I will bet you that it is not the lack of regulation. I bet you that there are just not any cars to hit in North Dakota or South Dakota. So it is very difficult to know definitively what is happening to cause that.

I lived in Massachusetts. People drive like crazy people there, in Boston, and that has to contribute something to the cost of insurance.

The Vice-Chairman: Mr. Kanter, have you completed your questioning?

Mr. Kanter: It may be that the question is not answerable.

Mr. Runciman: Just ask her if she is a Democrat or a Republican.

Mr. Kanter: That I would regard as an inappropriate question, Bob.

Mr. Keyes: I will go back to a very easy one, Ms. Bass, if I may, just to help me understand exhibits 1 and 2 a little better. Looking at the relationship between that base of \$100, does that refer to the same \$100 of premium or not?

Ms. Bass: Not from exhibit to exhibit, no.

Mr. Keyes: So you cannot compare one exhibit to the other?

Ms. Bass: No, you cannot compare.

Mr. Keyes: I was not too sure and I was trying to get a better understanding.

Mr. Swart: I could have answered that one.

Mr. Keyes: You could have even given me that one. Mel, why did I not think of asking you first today? I was trying to look at the whole business of the category. You were looking at an \$88 to \$100 ratio for low mileage, five years event-free, but if you turn to exhibit 2, low mileage with only three years event-free was a much better ratio on behalf of the--

Ms. Bass: No. The 100 only relates--

Mr. Keyes: Within each class then.

Ms. Bass: --to the class on that specific exhibit that is described at the top.

Mr. Keyes: But one could perhaps deduce from it, if you look from one to the other, that the rating at the moment perhaps was high in exhibit 2 for that \$100, because you are suggesting that the revised one would only have a ratio of 56 to 100. Is that fair to read out of that? You are really going to drop it dramatically for a three year event-free, \$56 as opposed to \$100; whereas in exhibit 1, regardless of dollars, low mileage, five years event-free, it is only \$88 as opposed to \$100.

Ms. Bass: The effect of the change on exhibit 2 for that top bar will be a much--

Mr. Keyes: Greater.

Ms. Bass: --greater decrease than the change on exhibit 1. That does not tell you anything about the absolute premium dollars.

Mr. Keyes: No, but it seems to suggest something about the current charge in that category. Maybe I am wrong, but it seems to suggest that--and also for the second category down in exhibit 2--a low mileage with even two events is still given a major reduction in ratio; 68 to 100 is still very major. It seemed to me that they were exceedingly high reductions from whatever the base is at the moment, as opposed to--

Ms. Bass: But there are also equally high increases when you look down.

Mr. Keyes: Except, again, nothing as high as in exhibit 1, where medium mileage and four events gets 308 per cent, in a sense, whereas in this category it is only 291. It is reasonably close.

Ms. Bass: Yes. That is also not going to happen very often. That is going to be very rare.

Mr. Keyes: I would think it was rare.

Ms. Bass: In exhibit 1, that essentially would mean that the person currently has been misclassified and really has four events. These companies forgive, but they do not forgive that much. It could happen. We throw that in simply because we do not know. When things are forgiven and there is not a rule that applies to it, anything could possibly happen.

Mr. Keyes: Thank you very much.

The Vice-Chairman: Thank you, Ms. Bass. I do not think there are any other questions.

Mr. Swart: I had one to Mr. Weir, if I might put it.

The Vice-Chairman: Very well. If I might, while you are getting ready, Mr. Swart, if we have finished with the Mercer report, perhaps we can excuse the other deputants.

Mr. Swart: Could I ask one general question before they leave? You have submitted a report. I think I understand it fairly well now. You have made certain recommendations. Is your job finished then?

Ms. Bass: I have also been retained by the ministry to go and meet next week with members of the Insurance Bureau of Canada and the Insurers' Advisory Organization, which have prepared a study on the redistributive effects, to discuss with them what the possible differences in the underlying assumptions are and perhaps find out where the differences in the reports lie.

Mr. Swart: Maybe my question should have been phrased a little bit differently. Are you continuing and do you expect to make any further recommendations to the government on the classification system?

Ms. Bass: If we are retained by the ministry to do that, we will do that.

Mr. Swart: At this point you have not been?

Ms. Bass: No. The contract applies to this only.

Mr. J. B. Nixon: They are probably available to the committee, too.

Mr. Swart: For any kinds of questions?

Mr. J. B. Nixon: Perhaps for a fee.

The Vice-Chairman: Thank you very much. The presentation has been most helpful and we will take it into consideration.

Mr. Swart: Mr. Weir, do you get a publication called something like Crittenden Insurance Rates, in which it gives insurance rates for various categories for various companies in Ontario?

Mr. Weir: I do not have that with me personally. The actuarial division of my office subscribes to a number of publications. I could not tell you without checking if that is one of the many publications we subscribe to.

Mr. Swart: My understanding is this Crittenden report gives the actual rates in Ontario for a great variety of classifications for quite a large number of companies. I think that would be helpful if we would have that base before us.

Mr. Weir: I may not have that because in the past there has been no need to do rate review. If we had them, it would have been for interest, of that nature. In that regard, we may not have them in our office.

Mr. Swart: You may not. I understand that it does come regularly to your department. Would you make it available to us if you have that?

Mr. Weir: If we have it, yes, I will.

Mr. Swart: Yes, I would like to see that.

Mr. Weir: I have one concern in that regard. Some of that material is provided to subscribers on a confidential basis. I am not certain if that is one of those publications. It is a limited circulation only to people who subscribe to the service and exchange data within the service. It is provided under contractual stipulation that it not be released outside the group because of the commercial interest and the proprietary nature of the materials. I am not sure if that is one of those products. I will doublecheck. If it is, then I may have to get authority to release that publicly unless--

Mr. Swart: You may not be able to let us know by tomorrow.

Mr. Weir: I think I would be able to let you know on this matter by tomorrow.

Mr. Swart: OK.

Mr. Weir: The other one on the rating causes much more difficulty.

Mr. Swart: Do you have any statistics on the percentage brokers get year by year? What I am leading up to is a statement from a broker last evening that in fact their percentage had been reduced in the last couple of years. That is not my understanding from others and I just wondered if you had any statistics on whether the percentage being paid by the insurance companies--I should have asked--

Mr. Weir: We have not collected that sort of statistical data in the past. Again, there was no reason for us to do that because the relationship with the broker and the company was private. The only area where we were involved in the remuneration of the broker was with respect to the Facility Association. Otherwise, I have no data with regard to broker remuneration.

Mr. Swart: You do not have any statistics on that.

Mr. Weir: As to broker remuneration?

Mr. Swart: Yes, the percentage that they get as brokers.

Mr. Weir: I know the average in the published statistics that the Insurance Brokers Association of Ontario would publish, but my office does not collect that type of data.

Mr. Swart: You would not have any reports then on whether rates in 1985 were much lower and the brokers got 12.5 per cent. The Insurance Bureau of Canada said that right now it was 11.7 per cent on average. I understand there is variation and of course some of the insurance companies do not use brokers, like Co-Operators.

Mr. Weir: Co-Operators.

Mr. J. B. Nixon: Just to help you, there is a further variation caused by the fact that not all insurance companies belong to the IBC and not all insurance brokers belong to the IBAO, so their average figures may not reflect the totality for the entire industry.

Mr. Weir: I do not have those figures. There has been no reason in the past to collect that sort of data. The brokers are an independently regulated and licensed body outside my office. They are a self-regulating organization and there has been no need.

Mr. Swart: You do not keep in your office any statistics on the returns they get on investments or anything of that nature, what the return on investments of insurance companies generally might be in Ontario.

Mr. Weir: We get their annual statements that they must file with us.

Mr. Swart: Investment income would be in that.

Mr. Weir: Investment income would be in there and I guess somebody could look through each statement and ascertain what a particular company's return was.

Mr. Swart: Do you have that prepared in total so you could tell us what that return was for, we will say, the year 1986?

Mr. Weir: No, I do not. I have the raw data, but I do not have the totals. Again, with our solvency investigation and audit, we were interested in one company at a time and not in the aggregate industry. We would look at one company to see its solvency and to ensure that there was financial integrity in that company, not per se. If each company was sound, then the premise is that the entire industry is sound. That is the degree to which we did that.

Mr. Swart: You have not accumulated, either from spot check or from using publications like Crittenden, the actual percentage increases, on average, that have been applied in Ontario on auto insurance, we will say for a given year of 1985 or 1986.

Mr. Weir: It is very difficult with 224 insurers licensed to write automobile insurance. Different insurers over the years will increase their rates at different times of the year--

Mr. Swart: I know all that.

Mr. Weir: No, we have not collected that information.

Mr. Swart: You do not have any data in that regard in terms of how much rates went up or whether in fact it was 20 per cent in 1985 and another 20 per cent in 1986?

Mr. J. B. Nixon: I was just going to say, Mr. Swart, that one of the other problems with using certainly the Insurers' Advisory Organization manual or the green manual--and I do not know ??Crittenden's--is that these are independent rating organizations which suggest rates.

Mr. Swart: Oh, I understand that. I am thinking of some method of actually spot-checking rates across Ontario.

Mr. J. B. Nixon: We felt that one of the advantages of the board is that all this information will be public and out in the open.

Mr. Swart: One way of doing it, of course, is what has been done by our research officer in the technique of total premium paid divided by total--

Mr. J. B. Nixon: Even then you are comparing apples and oranges, because you are comparing gross premiums here to net premiums in other jurisdictions.

Mr. Swart: Well, if you compare it, though, with another jurisdiction, it would be gross premiums in the same place, basically--

Mr. J. B. Nixon: No, they are not.

Mr. Swart: I say, if you do, it is basically the same. We are not going to get anything accurate, but I wanted some indication on it.

Mr. Weir: I would caution, sir, that using the gross premium figure does not take into account that there may be new entrants into the insurance marketplace that might account for the increase in the gross premiums. It may be that there are 1,000 new drivers that have been added and that might account for the increase in the gross premiums, not necessarily a percentage increase in the premium of any particular person. It could just reflect the new entrants into the system.

Mr. Swart: Yes, of course, I understand that, but it gives a ballpark figure.

Mr. Weir: I would not even be comfortable in saying it would give a ballpark figure. It is just too rough a figure to--

Mr. Swart: Why would you not say it is a ballpark figure if you find out the total premiums paid in any given year and then put the total number of insured vehicles on the road that the premiums apply to? There are no driver premiums here. There may be some variance, but why would that not give you a ballpark figure?

Mr. Weir: I guess I should say that I am not actuarially sophisticated to say whether that would be appropriate, so I defer to that.

Mr. Swart: OK. You have the IAO recommendations, the book in which they recommend the base rates, etc.

Mr. Weir: They do not file those with us. We have had the input from IAO into the rate classification system, but I do not get the filings from the IAO on a regular basis.

Mr. Swart: I understood from a previous question I asked on that, though, that it probably would be available. Is that not true? The IAO--

Ms. Parrish: Excuse me, sir. You are asking, are the IAO advisory rates publicly available?

Mr. Swart: Are they available to me--that is what I am primarily interested in--or available to this committee?

Ms. Parrish: We would have to inquire of the IAO. They are advisory rates. They advise their members, and frankly, this is a commercial activity. So we would have to enquire as to what their advisory rates are. I think the superintendent of insurance, though, is pointing out that advisory rates are just advisory rates. That does not mean that any of the people actually charge those rates.

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Mr. Swart: No, I know it is an advisory organization. Many of them follow and some of them do not follow that advice, but that is in fact the only way you can determine the rates, the individual companies. There is no other publication which gives you the rate classifications in the way that does, is there?

Mr. Weir: There is a danger perhaps with relying strictly on the Insurers' Advisory Organization rates, because they do not service the entire insurance community. It is only those companies that subscribe commercially to that particular service.

Mr. Swart: Yes, that point was just made and I understand that. But is there any alternative source to determine the kinds of ratings for young people that they have in this province? Is there any alternative source of information?

Mr. Weir: I think I am having difficulty grasping the sort of information that you are looking for.

Mr. Swart: I want to know what the base rate is. For instance, as was mentioned here earlier, Ms. Bass indicated that they are charging a base rate of three for 6-year-olds to 18-year-olds and it is a one, which means it will be three times as much. Is that information available? I know that may vary from one to the other, but apart from IAO, is that kind of information available?

Ms. Parrish: I believe it is available. I guess this is one of these conversations where it is very difficult to know exactly what you mean if we do not take out documents and ask, "Is this what you want?"

For example, the green book does go through various classes and says: "Here are the premiums collected for this classification and here are the premiums collected for this classification. Here are the losses," and so on. So the green book does go through that kind of process.

Mr. Swart: And it is available, is it not?

Ms. Parrish: Oh, yes. If you wanted a copy of the green book I could certainly give you that tomorrow.

Mr. Swart: Yes. If you would bring that, I would appreciate it.

Ms. Parrish: Yes, sir. There is no problem with that. That is all public information. It may be that, if there are a few moments when we begin tomorrow, perhaps we could show you what the green book has and then we would have a better handle on what it is that you are looking for. I always find these numerical things difficult to comprehend unless you have something to look at. As I said before, I became a lawyer because I cannot add and subtract.

Mr. Swart: I do not think I will ask you any more questions then.

The Vice-Chairman: I was going to ask you that because some of the members have other commitments and they want to leave. Thank you, Mr. Weir, for coming back.

Mr. Swart: Could I just ask this question? During the discussion next week, I will listen to the chairman. Will some of the staff be available, if we should need them, to deal with the clause-by-clause?

The Vice-Chairman: Yes.

Mr. Swart: Maybe other questions will come up at certain times and staff will be available to answer questions.

The Vice-Chairman: Yes, thank you. Before we break, there are a couple of housekeeping matters. Tomorrow is very full, I remind members. Also, if there are changes to the travel schedules that we wish to make individually they should be made by tomorrow. This is the travel to Sudbury. The clerk also

reminds me to remind you to bring your ticket stubs tomorrow for the travel for this week, to be submitted with your expense accounts.

Mr. Swart: I would like to raise this one other point of order. Tomorrow morning we have the Manitoba Public Insurance Corp. coming in. We have only set aside one hour.

The Vice-Chairman: Is it tomorrow afternoon?

Mr. Keyes: The Insurance Corp. of British Columbia is in the morning.

Mr. Swart: Oh, the ICBC. then is in the morning. We have only set aside one hour for that, ICBC. I think it is reasonable to say that there will be enough questions that it will go well over the hour. I am wondering if we should start at 9:30 a.m. Now that may cause some difficulty.

The Vice-Chairman: The difficulty with that is that some of the members have already gone and their offices are not open--many of them--to give them warning of the early start.

Mr. Swart: Can we run over for half an hour? I know that one hour is not going to be enough.

The Vice-Chairman: Also, we will have difficulty reaching ICBC at this stage to tell them to come at 9:30.

Mr. J. B. Nixon: If everyone sticks to the 20 minutes, we will get through in an hour.

Mr. Swart: Yes, we will. But I think, with some of the others, we will be talking to some fairly important people, like the ICBC. I do not think it is unreasonable that we should have them for more than an hour.

The Vice-Chairman: I can appreciate your point, Mr. Swart. It is just that, because there are so many people who want to make submissions to the committee, we have some scheduling difficulties.

The committee adjourned at 5:05 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ONTARIO AUTOMOBILE INSURANCE BOARD ACT

THURSDAY, JANUARY 28, 1988

Morning Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Farnan, Michael (Cambridge NDP)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Dietsch, Michael M. (St. Catharines-Brock L) for Mr. Chiarelli

Runciman, Robert W. (Leeds-Grenville PC) for Mr. Sterling

Swart, Mel (Welland-Thorold NDP) for Mr. Farnan

Clerk: Mellor, Lynn

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the Insurance Corp. of British Columbia:

Holmes, Thomas E., President and Chief Executive Officer

From the Fair Insurance Alliance of Ontario:

McBain, William, Member

From the Ministry of Financial Institutions:

Nixon, J. Bradford, Parliamentary Assistant to the Minister of Financial
Institutions (York Mills L)

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, January 28, 1988 .

The committee met at 10:06 a.m. in room 151.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT
(continued)

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

Mr. Chairman: The first delegation this morning before us is the Insurance Corp. of British Columbia, Thomas Holmes. Mr. Holmes, could you come forward?

Mr. Holmes: There is no political significance in where I sit?

Mr. Chairman: No. The only thing we would ask you to do is to sit down so we can pick you up on Hansard. Perhaps you would be good enough to identify yourself for purposes of Hansard. We have actually scheduled an hour. There is no brief. Perhaps you could start and then we will have questions from the committee members, I am sure.

INSURANCE CORP. OF BRITISH COLUMBIA

Mr. Holmes: First of all, let me thank the committee for inviting me here. My purpose, as I see it, in being invited here is to be available to let the committee know how the Insurance Corp. of British Columbia operates, its mandates and also to clear up some misconceptions that have appeared in various discussions of the corporation in the press. Unfortunately, it seems strange that a small crown corporation from the far west in British Columbia is involved in a position of defending itself in Ontario. Nevertheless, let me quickly go over a few of the facts and histories as I see them that may be pertinent to our operation.

First of all, as I believe you are well aware, the corporation was founded in 1974 and came into operation at that time. The corporation is a crown corporation. We have a mandate at present to provide only the basic liability coverage of \$200,000. That is the only monopoly the Insurance Corp. has and that has been since 1974. The monopoly on physical damage coverage was deleted from the regulations in 1976 and all coverages other than the basic \$200,000 legal liability are open for competition in the private sector and have been since 1976. As a point of interest, there is in excess of \$500 million available for competition in the private sector, that amount of insurance.

The corporation operated for a few years, and one of the points that came up is a contention which I would like to clear up if I can; that is the loan or payment of a grant by the government to the insurance corp. of \$181 million. That was a political decision by the government administration in power at that time. The corporation had a deficit of \$175 million in its automobile insurance operation and \$6 million in its general insurance.

I do not want to and will not get involved in the background of that, because that was a political decision, not a business decision. From a business decision point of view, whether that was paid as a grant or funded over a period of time is a business decision. The fact that it was made and paid as a grant and not made repayable is political. I am not privy to the information and the rationale of why it was done in that way.

Since the corporation operated at that time, it has been involved in two labour disputes that have been recorded, one in 1976--it was short-term--when the union acquired a first contract; second, there was a work stoppage in late 1980-81 for a five-month period. The corporation operated and survived those with no major problem and since that time the corporation has worked quite well in operating within its mandate of providing a union-management agreement and operations. I can tell you on a personal basis that we have worked very hard at it and it works very amiably. I do not see that as a problem in our ongoing operation.

For all intents and purposes, the corporation is structured with a board of directors made up of independent businessmen from the community. There is only one politician representing the government on the board, which is the minister responsible. The balance of the board of directors is made up of businessmen from the community.

At this time, I would like to correct one misconception that was given by the Insurance Agents Association of British Columbia. In their brief, they suggested that all members of the board of directors were from Vancouver. That is not correct. There are members from the interior of British Columbia sitting on our board.

For all intents and purposes, we run our operation almost identically to any other private sector insurance company with the exception that the owners are the government of British Columbia. We are not a stock company; we are a crown corporation, but the directors run the operation in the same manner as any other general insurance operation. We operate through the independent agency system exclusively and as such our claims are handled by our own employees. It is basically an operation very comparable to the private sector in that respect.

The mandate we have from the government is to break even and provide insurance at cost. In other words, it is a user-pay operation. To that extent, we have operated the corporation, with the exception of about five years, basically very close to that. Our conception of breaking even is plus or minus one per cent of our gross premium income. That is what we feel is a reasonable break-even situation. In our case right now, one per cent is plus or minus \$8 million because of our size.

We have had three years where we have had substantial surpluses and two years where we have had substantial deficits. In balancing that over the period since I have been involved with the corporation, 12 years, even though those large deficits have been there, the overall bottom-line position has been in total a break-even position. We indeed have met our mandate of providing insurance to the motorists of British Columbia at a cost basis.

We are very clearly a tort system. There have been several discussions I have seen from clippings suggesting we are no-fault in our operation. We are not. We are strictly a tort-operated system, the same as Ontario. We do have a section in our policy called no-fault accident benefits, but that is a small medical and rehabilitation side. It is not a no-fault system.

We operate and have done some very interesting things and been quite innovative. A monopoly, whether you like it or not, has certain advantages. Being able to handle large volumes of business at a reduced rate gives us some distinct advantages.

In making some comparisons in the private sector, our expense ratio or factor, if you will, is in the neighbourhood of 15 per cent. Based on information we have been able to glean from the normal statistics, the private sector on an individual basis runs between 25 per cent and 35 per cent on the expense ratio. An edition of a recent publication of a reinsurance company showed the 1986 expense ratio for all private sector companies on automobile only at 29 per cent. On that basis, we have some efficiencies.

We have by legislation eliminated age, sex and marital status as rating factors and we have had those eliminated now for some six-odd years. The legislation on that has been passed but not proclaimed because of the fact that in the legislation are territories. We have had difficulty with the introduction of a standard rate for territories and, as a point of interest, we are in the process of going back to having territories eliminated from that pending legislation. We think territories are and should be a proper method of using automobile rating classifications. It is for that reason the legislation has not been proclaimed.

As a point of interest, the corporation will write approximately \$1 billion in insurance premiums. We have a staff of approximately 2,700 people, and we will handle in the current year in excess of 600,000 claims. We expect on that basis to have a break-even position. We had a reasonably substantial rate increase, 22 per cent, for the year 1988, three per cent of which was made up of a provincial premium tax which the corporation is now subject to and which it had not been subject to prior to mid-1987.

As a great overall position, this is a quick overview of the corporation. The Slater task force has been to the Insurance Corp. of British Columbia and has done in-depth reviews. I believe that report has been available to you, so a lot of the details of the corporation and how it operates are there. I have brought with me for distribution a booklet called The Comparative Aspects of the Insurance Corporation of British Columbia and Private Sector Insurance Companies in Canada, where we do compare how we operate to the private sector.

To be right upfront with you, this was done in response to a book published by the Fraser Institute, by Mr. Grubel in Vancouver, who decided, being in the ivory tower of a professor, it gives great pleasure to him to publish books. So he published a book on the Insurance Corp. of British Columbia. Never once did he approach the corporation to discuss it or ask for any information, all of which was public; nevertheless, not to be confused with facts, he published his book.

On the same day his book was published, we also published this book; so it actually hit the stands at the same time. We have since updated this book, late last fall, with updated figures. This is available and gives you an outline of the insurance corporation's efficiency of administration, auto accident comparisons, our response on taxes, our response on penalty point premiums, income, subsidies. We are always accused of being subsidized by the government. In fact, we have some subsidies in reverse where we actually pick up some expenses that are normally government expenses.

We have a comment on compensation. We are also quite often accused as a crown corporation of paying excessive wages. I can assure you that all our wage comparisons are done against the public sector in British Columbia and, again, we are in the ball park, but we are neither the leaders nor the followers. We are where we think we should be.

We cover our investment policy, how it works, how it is responsible and what we do with it, the fact that we roll the total investment income of the corporation into our rate-making process. We have some premium comparisons that were done by people other than ICBC. We have a comment on discrimination, the fundamental automobile insurance rates, FAIR, program, which is elimination of age, sex and marital status. We comment on coverages that we have that we think are a little better and unique in British Columbia. We comment on the fact that there is universal coverage, which is perhaps one of the most important things in our mind; that is, if you are a British Columbia resident, there is nobody who is uninsured. You are never hit with the position of being involved with an uninsured driver or having no coverage available to you. It is there. There are also some advantages that we think are unique to ICBC, and we have outlined them in our presentation.

I asked that the booklet be withheld until I finished my comments, and I have now finished my comments.

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Ms. Poole: I want to pick up on a couple of your comments concerning the fact that insurance was provided on a cost basis. You mentioned that you had three years with a significant surplus and three years with a significant deficit, but at the same time, you did mention that there had been a \$175-million deficit and that the government had given, as a grant to the corporation, a total of \$181 million. If that \$181 million had been factored in, would you still have had surpluses in those years?

Mr. Holmes: The \$181 million was the financial position of the corporation in late 1975. At that time there was a change in administration of the provincial government. The corporation's financial position at that time was a deficit position.

The new government administration made the decision to fund the deficit of the corporation at that time by payment of a grant. It could have been, on a business decision, financed and collected from earnings over the next few years or paid off by a grant, the way it was.

As I said earlier, that was a political decision. The rationale, why they paid it as a grant instead of loan, I cannot explain. I have no idea. You would have to ask the politicians for the rationale behind that, but it was not factored in.

When the government paid the grant, it said: "We will pay off the Insurance Corp.'s deficit. You operate on a break-even basis and do not ever darken our door for money again." In reality, that is what happened. So that \$181 million or \$175 million on the auto is not factored in except since 1976. Does that answer your question?

Ms. Poole: Yes, to a certain extent. Another comment intrigued me. You talked about the fact that there is misleading information that the government is subsidizing the corporation, where, in fact, the corporation

actually subsidizes the government because it picks up some expenses that are normally government expenses. Would you elaborate on that and give us examples of what types of expenses would be comprised by it?

Mr. Holmes: Yes. Again, they are outlined in the booklet here. I do not know if they have been passed out or not. There are subsidies that we have. With the passing of the legislation with respect to age, sex and marital status, there was a discount. The corporation provided a discount of 25 per cent to senior citizens. With the act saying that you cannot differentiate on age, sex and marital status, that affected the senior citizens. There was a fairly significant backlash from senior citizens when that grant was dropped. The government at that time said it would review it, and it did review it and put into place legislation allowing a senior citizen's discount similar to a home owner's grant. That was funded by the government for two years, and the government said, "Since this legislation has not been proclaimed, Insurance Corp. of British Columbia, you pay the grant," so we have subsequently been picking that grant up for the past five years, contrary to the pending legislation. That amounts to about \$8 million a year.

We provide a similar discount to physically handicapped people, which amounts to about \$150,000 a year. We pay a 35 per cent surcharge on hospital costs. The insurance corp. is subrogated by the hospital insurance scheme for any person who is in the hospital because of an automobile accident. On top of that, we are surcharged 35 per cent, the rationale being that allows the government to cover its capital costs.

On top of that, we perform for the motor vehicle branch by handling all the licence plates and sending out all the forms. The cost of that and related computer expense is about \$10 million a year. That is a directly related motor vehicle expense that is picked up by the insurance corp.

Ms. Poole: But I assume you also get the income from the licence plates and--

Mr. Holmes: No, we do not. That income is general revenue and it belongs to the government. It is not ours. We also pick up social service tax and collect it at no cost. We must pay the agent a commission for picking that up and we are not compensated for it. That is not a great amount, about \$1 million.

Ms. Poole: Can I have one final question?

Mr. Chairman: We have a number of questioners and we are running on a pretty tight schedule. If it a quick one, go ahead.

Ms. Poole: It was just in reference to the elimination of age, sex and marital status. Can you tell us what year that came into effect and what effects that did have on your insurance costs?

Mr. Holmes: As I mentioned, the legislation has not been proclaimed, but I believe it was approximately six years ago--I have not got it in front of me--around 1980-81. The overall effect it had is that it increased the average premium to people who were over the age of 25 by about 10.8 per cent. I believe that is very similar to the studies done by the private sector companies in Ontario.

Ms. Poole: But that was partially compensated by the fact that you had the senior citizen discount, so it would--

Mr. Holmes: No, the two really do not go together. When we moved to change age, sex and marital status, we changed the concept of how we were going to collect premiums from individuals. We looked at the bonus-malus scheme, which says we are going to collect it based on the driving record and not on age. That was the change in concept.

Ms. Hart: You mentioned in your presentation that you roll all your investment income into your rate-making?

Mr. Holmes: Yes, we do.

Ms. Hart: I take it that is different from what the private sector companies do. Can you comment on the significance of that?

Mr. Holmes: I cannot speak for the private sector, and I do not think--

Ms. Hart: You must have mentioned it for some reason. Perhaps you could tell us why you mentioned it.

Mr. Holmes: I mentioned it because, as a mandate to break even, ICBC is dollars in and dollars out. One of the things which I believe was in a fairly noticeable ad made a comment that ICBC lost \$170 million last year. From an underwriting point of view in looking at our statement, they are absolutely correct. We plan to lose money and we plan to have a deficit in our underwriting, which is offset by our investment income.

Our investment income for the year 1986 was in the neighbourhood of \$170-odd million. Offsetting that is the fact that we do plan for an underwriting loss, whereas a private sector company plans for an underwriting profit. If I were on that basis, I am not going to invest very much money in ICBC, which has a mandate to break even. I have no qualms with the concept of a general insurance operation in the private sector making money. They should.

Ms. Hart: I have just one other quick question. We have heard extensively about your sophisticated computer system. Can you tell us how that was financed and whether it is owned by ICBC and who paid for it?

Mr. Holmes: When you say "owned by ICBC," all of the assets of the corporation do belong to the corporation. The corporation originally was funded by a \$50-million loan by the government, a startup cost which was repaid in total. It has just come out of operating expenses from the operation and day-to-day cost of the insurance corporation. At the moment we own. Being a crown corporation, we are able to get lease-purchase agreements; the amount of payment applied to the lease can be applied to purchase. If a business case says buy, we buy. Otherwise, we lease. It is very simple.

Mr. Chairman: I have two more government members, but pursuant to our agreement of dividing the time among the parties, I am going to move on to the other two parties. If there is time, we will come back, otherwise not.

Mr. Swart: There are at least two areas I would like to ask questions on because they are the areas in which accusations of conflict have been made by many politicians and many people in the insurance industry here. That is the issue of the subsidies, which was touched on, and also the issue of the efficiency at which you operate. I want to ask you some questions in that regard. You can give me a very quick, straight answer if you wish.

A leaflet put out by the Ontario private automobile insurance industry states this about public auto insurance: "There will be other hidden costs like tax exemption and shared office space not paid for. Annual cost of this is \$74 million in BC." Is that statement correct?

Mr. Holmes: If my memory serves me, that figure came from the Grubel report. I do not know how he arrived at that. I have no earthly idea. He is suggesting that the fact we do not pay income tax creates an onerous burden on the rest of the taxpayers.

Mr. Chairman: Perhaps you could tell the members who Mr. Grubel is.

Mr. Holmes: Yes. I am sorry. Mr. Grubel is a professor at the University of British Columbia, a member of the Fraser Institute. He was commissioned, either by the Fraser Institute or himself, to write a book called Focus on the Insurance Corporation of British Columbia. It is rather ironic that the chairman of the Fraser Institute is also the chairman of the board of directors of the Insurance Corp. of British Columbia. That was an aside.

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He published a book. I believe his comment was based on the fact that, or he suggested that, since we do not pay and are not subject to taxes, the amount of tax that normally would be paid by insurance companies operating in the province must therefore be picked up and paid to the government through some other form--whatever method they want to suggest is used--and therefore that is a loss of that amount of money. Therefore, it is a subsidy to the corporation.

My answer to that is if we have a break-even mandate, even if we were subject to tax and we broke even, our mandate, as it was shown over the last 12 years, we would still pay no tax.

Mr. Swart: Let me just pursue that a little bit further. You pay grants in lieu of municipal taxes in full on the buildings which your corporation owns.

Mr. Holmes: From an operational point of view, we pay all municipal and all business taxes on all of the properties that we own in the way of grants.

Mr. Swart: You now pay a three per cent premium tax.

Mr. Holmes: Yes, we do.

Mr. Swart: When you operate on a nonprofit basis, you pay no corporation tax, but then, of course, in Ontario, where the insurance industry says it has lost money for the last five years, it would pay no corporation tax either when it loses money. You pay no corporation tax, obviously, because you are nonprofit.

Mr. Holmes: We pay no federal corporation tax.

Mr. Swart: OK, but you do pay all other taxes at the same level.

Another statement which is made by the insurance industry: "Government and operations do have a reputation for low efficiency, poor service and bad

morale." Could you indicate the efficiency of the operation of the BC government? What is your total cost? Let me take your annual report for 1986, which I have here and in which you state the operational expenses and other planned income use. Claims operation expenses are eight per cent, administrative expenses are six per cent and commissions are six per cent.

Are those the total costs of operation? You only spent 20 cents on the dollar for all expenses, apart from the actual claims that you pay out?

Mr. Holmes: Again, you get into a little bit of an interesting discussion as to what are allocated expenses as against administrative expenses in that. Usually, claims expenses are allocated a little differently, but on the same method of calculating expense ratios that the private sector uses, ours for 1986 was 15 per cent as compared, to the best of our knowledge, with a report I have, published by the private sector, of about 29 per cent for 1986. We have about 14 points better operation administratively than the private sector. That is basically help from a monopoly. I make no great bones about that.

Mr. Swart: Do you include the claims adjustment expenses? It is included in your document here at eight per cent. Is that included in the figure you gave us of 15 per cent?

Mr. Holmes: No.

Mr. Swart: Nor is it included in the private sector. When it operates at 29 cents, their claims adjustment expenses are--

Mr. Holmes: If you go to the superintendent of insurance, there is quite a straightforward definition of what is allocated expenses in claims and how that is done. I do not want to get into that discussion, but all I am saying is that it is on the same basis as the private sector.

Mr. Swart: In one of the ads here from the independent insurance brokers, we also have: "Crown Corporations Pay No Tax." We covered this before. In fact, we have already covered that you do pay all taxes but you do not pay any corporation tax. Relative to this subsidy, in his statement here William Brown, president of the Insurance Agents' Association of British Columbia, made some reference--some implication--in answer to a question from Mr. McGuinty, who unfortunately is not here today because of injury.

He said: "I think you raised the question of whether the cost of the building and equipment is being paid for out of insurance revenue, written off over a period of time, or perhaps is paid from other revenue. Were you implying that?"

The building he is talking about is one in which Mr. Brown stated just previously: "Take the Insurance Corp. of British Columbia, for example. I do not know what they did with their building in North Vancouver that somebody had to build for them. They are now leasing it, but I do not know what their rent is either. I do not know who paid for their computer. I do not know whether they have paid back the compensation stabilization fund that they were provided with by the provincial government to begin with. There are these kinds of things. Unless you know the answers to all of that, I do not think I would like to believe their remark that they are operating in such a lean area." On the quote about that building, is there some subsidy provided as implied here?

Mr. Holmes: None whatsoever. The corporation purchased the land, built the building and paid for it. It is on our books at our cost, less depreciation.

Mr. Swart: Mr. McKay, general manager of our Facility Association, that important operation that we have here, stated, "I am not sure what people told you that the system does not lose money"--he is talking about ICBC--"but starting in 1985, the following figures will indicate the loss suffered by the Insurance Corp. of British Columbia." Auto plan loss in 1985 was \$84 million; in 1984, it was \$118 million; in 1983, it was \$97 million; in 1982, it was \$108 million; and in 1981, the loss was \$101 million, for a total loss of \$512 million. He goes on to say: "I have no idea who your source of information was in BC. However, you may quote the figures that I have mentioned above to them, as they are accurate."

Did you not make a profit in every one of those years, in total, the bottom line?

Mr. Holmes: I think I commented earlier with respect to the fact that if you were to take those figures as an underwriting loss, they are accurate, but the underwriting loss is not how the company has been structured. If you look at a financial statement, go halfway through it, look at the liabilities instead of the assets and say you are broke, that statement would be absolutely correct. In fact, if you go back and review the annual statement, you will see the bottom-line position of the corporation has been break-even, within the definition I have used of plus or minus one per cent, for quite some time.

Mr. Swart: Thank you. In these recent years, has there been any subsidy at all that has gone from the insurance corporation to the government, rather than vice-versa?

Mr. Holmes: There has been no direct subsidy from the government that I am aware of as the chief executive officer since I have been in that position, other than the grant that was given in 1976.

Mr. Swart: Direct or indirect?

Mr. Holmes: Direct or indirect.

Mr. Swart: Perhaps we can come back, if some of the others want to ask questions.

Mr. Chairman: You have two minutes, according to our agreement.

Mr. Swart: Perhaps my colleague will want to ask some questions. I understand that we may go over somewhat.

Mr. Chairman: Not today. We have a very full schedule. We have people coming here from Manitoba, as you know. We do not want to have to bring them back on Monday or have them meet us in Sudbury. I will move on to Mr. Runciman while Mr. Hampton is trying to decide if he will ask a question.

Mr. Runciman: Sir, what was your background before coming to ICBC? Do you have a background in the private sector in the insurance business?

Mr. Holmes: Yes. I have been about 35 years in the insurance business, of which 25 years have been in the private sector. Immediately prior

to joining the corporation, I was the general manager of the British Columbia Motorists Insurance Co., which was the largest writer of automobile insurance in British Columbia and was owned by the British Columbia Automobile Association. Prior to that, I started my career with the BC underwriters association, which is now part of the Insurance Bureau of Canada group. Many years ago I also worked as an underwriter and a field man for the Royal Insurance Co. of Canada, the General Accident Assurance Co. of Canada and the London Life Insurance Co. I also spent eight years as an agent, running my own insurance agency office.

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Mr. Runciman: You have been around quite a while and you have seen the transition from private to public in British Columbia.

Mr. Holmes: Yes, and quickly, without taking up too much of your time, at the time I was the general manager of the automobile association's operation. I had about an \$18-million operation I had spent 10 years of my life building up. I came to work on February 28, 1974, and I had a \$18-million or \$19-million operation. On March 1, I came to work and I had nothing. If you want to say how government insurance affects somebody, ask me.

Mr. Runciman: All right, I am asking.

Mr. Holmes: It hurt.

Mr. Runciman: I am wondering about the impact it had on the operations of insurance companies in the province. There was some indication that you saw a significant number of them cease operations in the province.

Mr. Holmes: Yes. In the last four or five years, there have been a few others that ceased operation, nothing to do with government insurance.

Mr. Runciman: I did not ask you that.

Mr. Holmes: I volunteered it.

Mr. Runciman: Have you had an opportunity to review Bill 2, the approach the government is suggesting in Ontario?

Mr. Holmes: I have read it, yes.

Mr. Runciman: Do you have any observations you wish to make?

Mr. Holmes: I feel it is unbecoming of me, from my position in British Columbia, to be commenting on legislation in Ontario.

Mr. Runciman: I appreciate that. When you went through the change to the risk classification system, doing away with age, sex and marital status, was there a significant dislocation in terms of the rate adjustments at that period? How did it impact?

Mr. Holmes: The people under 25 thought it was wonderful. They had immediate benefit. The overall effect on people outside the age classifications was in the neighbourhood of eight to 12 per cent as a range, with the average about 10.8. There was some muttering by some people who felt it was unfair.

Again, conceptually, you have to look at how you want to structure it. If you agree conceptually that that is the structure, you can support it.

Mr. Runciman: But the reaction was not too significant. Is that what you are saying?

Mr. Holmes: It was not major.

Mr. Runciman: I am just trying to tie this in. You talked about getting a grant of \$180 million or something like that, or a forgivable loan, from the government, which you did not want to comment on because you indicated it was a political decision. Was that during the startup phase, or when was that?

Mr. Holmes: That came in 1976. The corporation at that time was two years old. My understanding is from the other side of the fence because I was in the private sector at that time, but the government statement was that no one who buys insurance from ICBC will pay more than he did the previous year. They operated a rebate system on that. Again, I cannot comment.

Mr. Runciman: Obviously, that could have softened a lot of the consumer concern.

Mr. Holmes: The age, sex and marital status was not involved in that transition at that time. It came later.

Mr. Runciman: So the ICBC was losing a significant amount of money in its first couple of years of operation?

Mr. Holmes: Yes.

Mr. Runciman: You mentioned that was obviously a political decision. That is something we have discussed in some detail--the involvement of governments once you start dipping your fingers into this area. We have a quote here from the St. Catharines Standard, from the New Democratic Party critic in British Columbia, who was suggesting that 1987 premiums in British Columbia were deliberately held down because the provincial government was fighting an election. I wonder if you have anything to say in respect to that comment by one Moe Sihota.

Mr. Holmes: Prior to becoming chief executive officer, which I have been since July 1, 1980, I was senior vice-president of automobile insurance and I have been involved in the rate-making process and recommendations from management to the board of directors. I am also on the board of directors. There has never ever been a change by the government of British Columbia in any recommendation made by the board of directors in the rates submitted to them.

Mr. Runciman: Obviously, the NDP critic in British Columbia disagrees with you and he is indicating that ICBC should have raised its premiums last year instead of chalking up major losses to help the Social Credit government fight an election. The chap from the brokers' association in your province, who was here, said there is a great deal of politics involved in rate setting. That is part of his testimony.

Mr. Holmes: It is always easy from the outside to make accusations, political or not. I am here to tell you from my position as the president, and

I have firsthand knowledge, that there has never been a change of the recommended rates that have come from our actuaries to our board of directors, that has been approved by the board of directors and that has been given to the government. There has never been a change that has been submitted by them.

Mr. Runciman: But you have a minister sitting on your board of directors.

Mr. Holmes: He has one vote.

Mr. Runciman: It is a pretty significant vote, I suggest.

Mr. Holmes: I will tell you this--

Interjection.

Mr. Holmes: Just a minute. Please, let me answer this question. This is important to me. We had some significant suggestion that there was a change in rates, when we reduced our rates a couple of years back, that it was political. If you would like to look at the financial statement, a copy of which I think is there, at that stage of the game we had a surplus, a profit, of \$74 million. How do I raise my rates when I have made a surplus in the previous year of \$74 million in a break-even position? If that is political, you can judge it that way accordingly.

Mr. Runciman: I am not here to debate it with you. I am saying you have the critic for the official opposition in your province and the president of the brokers' association saying there is. I felt you should have an opportunity to respond to it.

Mr. Swart: Can I just ask a supplementary?

Mr. Runciman: As long as it is on that point.

Mr. Swart: The statement was made that there was a substantial loss last year. In fact, was there a loss last year or was there a \$1.1 million profit?

Mr. Holmes: When you are talking about last year, 1986 or 1987?

Mr. Swart: The latest one we have in the annual report is 1986.

Mr. Holmes: We had a surplus position. I think the position in 1986, the bottom line, is that we had a surplus position.

Interjection.

Mr. Swart: Income was \$1.1 million net.

Mr. Runciman: You pay property taxes. Is there a proviso there that if you lose money, you do not pay the grant in lieu of taxes?

Mr. Holmes: No. We pay direct to the municipalities on any normal basis.

Mr. Runciman: When you are talking about subsidies in reverse in the report you have provided us with, and you are talking about a 25 per cent discount for seniors, which is a social program the way you describe it, I

guess that is part and parcel of the unisex-rating process. I guess you could say that a discount is available through the Ontario system with the risk classification system that is presently in place, where you do have those age distinctions and a benefit in some respects and in certain areas you do not benefit. There are also other areas, the forgiveness element, the driver training provisions and a number of other considerations that are not reflected in your rate system.

Mr. Holmes: That is correct. We have some variations from that. We used to give discounts on driver training and we stopped.

Mr. Runciman: OK. One thing you talked about is the ICBC paying a 35 per cent surcharge on the provincial hospital plan. What is that all about?

Mr. Holmes: We are billed a daily cost for every person who is in any hospital, the same as they would pay if they did not have medical coverage. In addition, we are billed for a 35 per cent surcharge on top of that. At one time, I believe the workers' compensation was also subrogated for hospital costs and they paid that also.

Mr. Runciman: What is the rationale?

Mr. Holmes: The rationale, I have been told, is that it offsets the capital expenditures of the hospitals' cost to the government.

Mr. Runciman: Why should you be nicked?

Mr. Holmes: I cannot answer that question.

Mr. Runciman: OK. The other thing is, you are performing computer services for the motor vehicle department. What kind of services?

Mr. Holmes: The key in our operation that gives the universality of insurance is the fact that the licence plate and insurance are tied together. You cannot get one without the other. You cannot cancel the insurance without cancelling the plate. They are tied together. Our agents, the independent agents, handle the licence plates and the registrations, all of which is done through our computer system. The mailing out of the registrations, the cost to mail out the registrations, the handling of the plates, is all done by ourselves. The revenue for the plate, as I mentioned, goes to the government under the general revenue and the costs are paid by us, not the motor vehicle branch. We have the cost, but we do not have the income.

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Mr. Runciman: Right. You talked briefly about the strikes that you have experienced since going to a public operation. You have painted a rather rosy picture, really. We have told by others that during at least one of those strikes there was a rather significant disruption in terms of getting repairs. Body shops and so on were reluctant to get involved in carrying our repairs because of the strike.

Mr. Holmes: It depends on who you want to talk to in any labour dispute what kind of answer you are going to get. We operated the corporation, from our point of view, we thought quite successfully. There were certain problem areas for the motoring public. The worst one was the people who had a total loss. For people whose cars were drivable, there was not any great

problem because they got their cards repaired. The bills were sent to us and we paid the garages. The people who had total losses, where the cars were completely gone, were a little bit more of a problem. The people who had injuries, seriously injured, were not a great problem because, in most cases, those claims are fairly long tailed and take some time to settle before the chap is out of the hospital. It was not a problem as far as that was concerned.

There were some problems. We ended up with a backlog of about 250,000 claims that we had to look at. When you start looking at the average person in the insurance business and you have 250,000 claims backlogged, it is mind-boggling, but let me say that our normal case load at this time today is about 100,000 claims, which is normal.

Mr. Runciman: The point is that you are susceptible to an industry-wide shutdown through labour strikes.

Mr. Holmes: Yes. As a union shop, yes, we are subject to the same as anyone else, depending on how we are managed.

Mr. Runciman: You mention tort system similarities between BC and Ontario. The primary concern we have heard expressed here is the Family Law Act? Do you have a comparable piece of legislation?

Mr. Holmes: Yes.

Mr. Runciman: With the same kinds of problems in terms of suits?

Mr. Holmes: Yes.

Mr. Runciman: There is no indication, effort or initiative under way towards tort reform?

Mr. Holmes: Not that I am aware of.

Mr. Runciman: That is interesting. I guess I will just ask you for an off-the-cuff opinion. You want not want to give it. I have suggested once you move into this area, if you do find problems in terms of a government-run program or even going to the extent the government is going now, which I think is a step in that direction, it is like rent controls, once you get into an area like that, it is pretty difficult politically to get out of it. I guess it would be a significant problem.

When we look at BC, which is involved very much in privatization now, probably more so than any other jurisdiction in Canada, obviously there is widespread acceptance of the program there, but I guess as well it would be extremely difficult politically to move towards privatization of the corporation.

Mr. Holmes: You are absolutely correct in your earlier comment, but I do not wish to comment on it.

Mr. Chairman: OK, Mr. Runciman. Mr. Swart, are you ready? I am going to divide the balance of the time equally between yourselves and the government. You have about five minutes.

Mr. Hampton: What are the reserves of the Insurance Corp. of British Columbia? I know you have in the past had sizable reserves. What are they?

Mr. Holmes: I do not know what your definition of reserves is.

Mr. Hampton: I understand that your corporation sets aside, or has set aside in the past, reserve funds. In other words, in years where you have turned an end-of-the-line profit, you have set some of that money aside in reserves, have you not?

Mr. Holmes: Yes, we have. Our financial statement shows that we have normal reserves for claims, which are actuarially calculated and confirmed by outside actuaries as far as the claims are concerned. We have a rate stabilization reserve, which at the moment is \$60 million. We have a catastrophe reserve, which is \$20 million, and we have \$12 million in unallocated surpluses of the corporation, plus we have in our statement, if you will look at it, some unamortized capital gains, which are not a reserve, but they are unamortized capital gains. We handle gains and losses on capital over a five-year period or the length of the bond in that case, whichever is lesser.

Mr. Hampton: These reserves are as a result of money that you have earned through your operation?

Mr. Holmes: Yes.

Mr. Hampton: This is a leaflet that was handed around in Ontario about six months ago. In it, it says, "Thousands of new civil servants will be hired to run a government auto insurance operation." I wonder if you could comment on that. What number of employees do you have? Generally, would you say that is a true statement in the case of ICBC?

Mr. Holmes: I will not comment on that statement, but let me respond that we have approximately 2,700 employees in the corporation. About 50 per cent of them are in claims, the balance are administration and operational employees. I will stack our operation up on a comparative basis against any other insurance company in North America, if you want to look at it from an efficiency and operational point of view. I do not know how that relates to your comments, but that is my response.

One last comment, if I may. The corporation employees are not civil servants. We are outside that. We are completely outside of any direct involvement with government. I do not get any marching orders from Victoria on a day-to-day basis, period. The direction is strictly from our board of directors on policy and operations. I have never once been asked to hire anybody or do this or pay a claim by any member of the government, regardless of which side of the House they sit on, nor would I accept it if I had, but I have never even had that request. They have left this corporation alone to operate on its own merits one way or another. I think that is key.

Mr. Hampton: Have you ever commissioned any studies that indicate the satisfaction or the dissatisfaction of the citizens of British Columbia with ICBC?

Mr. Holmes: Yes.

Mr. Hampton: What do those surveys indicate?

Mr. Holmes: We do them in the context of a fairly extensive and sophisticated thing. It is difficult to go through the whole thing at this time, but to the extent that the majority, from a service point of view and

how we handle that, the claims we provide, the satisfaction level is extremely high.

Offsetting that, we do goof some. In an operation our size, with 600,000 claims, even if I provide 99.5 per cent service, I have half a per cent or 5,000 people who are mad at me, and 5,000 people who are mad at me is an awful lot of people, especially if they go home and tell their husband or wife. That is 10,000 people mad at me. If you turn around and relate that to 10 per cent of those people who write letters to an MLA, an MLA gets upset if he gets 10 letters on something people are mad about.

The size and logistics of our operation are immense, but we have found overall customer satisfaction has been very good, subject to, philosophically, should the government be in the insurance business or not. That is always there.

Mr. Chairman: Mr. Hampton, in fairness, I am going to have to allocate time to the other parties. Mr. Sola and then Mr. Kanter.

Mr. Sola: My questions have been answered.

Mr. Chairman: OK. Mr. Kanter.

Mr. Kanter: I have several questions about rates, if I might. First of all, with respect to drivers who have been accident-free for many years and then have a single accident, what is the policy of your insurance company with respect to that type of driver?

Mr. Holmes: We have basically a bonus-malus scheme which gives a reduction for no claims for a maximum of four years or a 40 per cent discount. If you have one accident and you are at the 40 per cent, you lose three steps on the scale, so you would have a 10 per cent discount. Two accidents in one year, you would have a surcharge and there is no limit on the number of surcharges.

Mr. Kanter: So you do not have the kind of accident forgiveness policy on one accident that many other private insurance companies have?

Mr. Holmes: No. Our forgiveness setup is that if you are 25 per cent or less responsible for the accident, then there is forgiveness.

Mr. Swart: Can I ask a supplementary, because it is relevant? Is it not true out there that if you have a small accident and you pay that cost yourself, you do not lose those discounts?

Mr. Holmes: Sure. That is not a claim then.

Mr. Swart: Yes, you pay it yourself.

Mr. Kanter: My second question concerns rates for drivers with accidents. You told us at the beginning that the average increase for 1988 in premiums was about 22 per cent, along that line. I understand from some newspaper articles--and I have one from a rather small paper in BC--that people who had at-fault accidents in the past year would pay around 83 per cent more in 1988. Is that correct?

Mr. Holmes: They will lose their discount. First of all, you increase the base by the 22 per cent on average. That puts it up. So they would lose their 40 per cent discount plus the increase on that base, plus the three steps up. If you compound that, yes, it is in that neighbourhood.

Mr. Kanter: So that while it is true that the average premium might go up by 22 per cent, a person who has had one accident in the last year would see his premium increase by 83 per cent?

Mr. Holmes: He would lose his discount of 40 per cent plus the increments of the rate increase on the base, plus that. If you compound that out, it is in that neighbourhood.

Mr. Kanter: Then, of course, if a person had--it is pretty unfortunate--two accidents, the increase might be substantially higher than 83 per cent?

Mr. Holmes: Yes. The whole concept we have is, good drivers--bad drivers, and we have tried to put as much of the onus on the people who have the accidents and give as much of the discount to the people who are claims-free.

Mr. Chairman: I just have one question, and I am probably going to get shot for this. On page 12 you talk about the solvency requirements of private insurance companies not being necessary with government-run plans because you have the backing of all those government assets. What if the Treasurer in your province in any one year decides that for political reasons he wants to cut back on the deficit--do you have a deficit? I guess you do; everybody does--and it is a year in which you have not been able to anticipate this is going to happen and you have claims that exceed the moneys that you have in hand. Where do you get it from? How do you pay the claims?

Mr. Holmes: We are not cash poor. We have an investment portfolio at the moment of approximately \$2 billion. We are lenders of money. We do not borrow. With the reserves set out for unpaid claims and unearned premiums, we have a substantial investment portfolio, which is handled in-house by the insurance corporation. We do not have a cash-flow problem. So even a \$100-million deficit--just pulling it out of the air--right now would not be a cash or operational problem for us.

Mr. Chairman: I did not get that from page 12, because you indicated--

Mr. Holmes: I have no capital, but there is a difference between capitalization of an operation and cash flow.

Mr. Runciman: Why are you increasing rates if you have \$2 billion?

Mr. Holmes: I said these are reserves for money that we have. The reserve for claims is there and paid. The balance is unearned premiums, which is not our money, but we still have it as a cash-flow position. There is a difference between the financial position of the corporation and cash flow.

Mr. Swart: You have rate reserves, do you not?

Mr. Chairman: So, in fact, you do have a reserve, per se, to cover any potential claims during that year if the scenario I suggested took place?

Mr. Holmes: I understood your question to be, how do I pay the claims if I have a loss? I am saying that I do not have a cash-loss position; I have a position, if I were to lose that \$100 million a year every year for 10 years, boy, I would have some problems, because there is no capital as such.

The point we are making here is that we do not require a capital position like a private sector company that requires roughly two and a half to three to one capital-surplus position to insurance premium writings. If we did that, we would see no advantage from it because we have a government guarantee. Whether we like it or not, the government still is the guarantor of the Insurance Corp. of British Columbia.

Mr. Chairman: My suggestion was that if the government in any one year, for whatever reason, decided that year--you probably have the same as we do, April 1 as your--

Mr. Holmes: No. Calendar year.

Mr. Chairman: That is not an annual year-end is it?

Mr. Holmes: Yes.

Mr. Chairman: It is. If the government, without your knowing it, said, "We are going to reduce the deficit this year," or "We are going to increase it and we are not going to guarantee your losses," or whatever, where would you be?

Mr. Holmes: The government has no way of getting any hands on the corporation's assets, the money, by legislation.

Mr. Chairman: All right. Thank you.

Mr. Keyes: Could I have 30 seconds?

Mr. Chairman: No. If I gave you 30 seconds, in fairness, I would have to give everyone else the same. Thank you very much. I appreciate your coming from sunny British Columbia. We would have dearly loved to have come out to visit you but it was more economical to bring you here.

Mr. Holmes: I wish you good luck in your deliberations.

Mr. Chairman: I wish you a safe trip back to British Columbia. Thank you very much.

The next presenter is the Fair Insurance Alliance of Ontario, Bill McBain. Is Mr. McBain here?

Mr. Swart: While he is coming forward, I would like to let the record show that the parliamentary assistant, Mr. Nixon, said in the House: "What I do not have for members is the statistics from British Columbia, Saskatchewan and Manitoba. Why? Because they will not tell you." He did not ask a question here today.

Mr. J. B. Nixon: Let the record show that the chair and you in particular, Mr. Swart, object to my asking questions.

Mr. Swart: That has not stopped you up till this time.

Mr. Chairman: Let us not get into a controversy, but in fact that is correct. There was some objection taken to Mr. Nixon asking questions. In fact, we just checked the ruling again because Mr. Nixon thought that was not correct. The clerk reaffirmed that he can comment afterwards, as Mr. Runciman said, as a resource person. So I do not think that is perhaps a comment that is accurate.

Can we have Mr. McBain? Mr. McBain, you are before us. Would you like to identify yourself for Hansard. I understand we have exhibit 57, if you would like to read that, recognizing that you have half an hour for your presentation and that we would like to allocate some time to the members to ask questions.

FAIR INSURANCE ALLIANCE OF ONTARIO

Mr. McBain: I should be quite brief. William McBain is my name. I am here representing the Fair Insurance Alliance of Ontario.

The FIA is disappointed that the government has seen fit to bring forth Bill 2 establishing an independent Ontario Automobile Insurance Board at this time and in the manner it has chosen. We feel that the timing for the introduction of this bill and of these hearings is inappropriate for the following reasons.

The introduction of Bill 2 and the holding of subsequent public hearings should have been delayed until the report of the Inquiry Into Motor Vehicle Accident Compensation in Ontario by Mr. Justice Coulter Osborne had been presented in the Legislature and until such time as the report had been properly considered by the Legislature. The report was due November 1, 1987, and it is curious it has not been presented prior to these hearings.

Bill 2 seems based on the false assumption that the insurance crisis in Ontario is based solely on exorbitantly high premiums, unfairly and unjustly applied on the basis of discriminatory rate structures. The assumption is, however, somewhat correct. The rate classification committee has been given the directive by the government to eliminate age, sex and marital status as the basis for establishing insurance rates. The new rating system, however, has merely replaced the word "age" with "years of driving experience," ensuring that young drivers will continue to be treated unfairly as a class, regardless of driving record.

The report by William M. Mercer Ltd., the draft proposal of the rate classification committee and the willingness of the government to maintain rate discrimination based on age forces us to agree with the conclusion drawn earlier by the Consumers' Association of Canada that "the draft proposal appears to be designed to cause as little disruption as possible in the present unfair rating system." We see little to suggest that this will not continue to be the case throughout the life of the board. The FIA feels that the only personal criterion upon which rates should be judged is the driving record of the individual, regardless of age.

Bill 2 fails to meet its most basic stated goal, the elimination of discrimination. The government is also misguided in its belief that mere rate adjustment will lift the insurance burden off the backs of Ontario motorists. The insurance system in this province is in need of basic restructuring that goes far beyond the mere altering of rate structures. We believe that the best

models currently available upon which to base this restructuring are the public insurance systems currently in place in western Canada.

The Insurance Bureau of Canada has told the public often enough, primarily during the last provincial election, that it loses money on auto insurance and has used the figure of \$330 million on various occasions. Statistics Canada figures recently published state that casualty and property insurers in Canada had net profits of \$772 million for the first two quarters of 1987, up from \$292 million in 1986. What is the source of IBC's figure? We are concerned that the government of Ontario more readily accepts the IBC figure and that Bill 2 is intended, among other things, to ensure continuing very healthy profits in the insurance industry at the expense of motorists in Ontario.

The Statscan figures suggest that the insurance companies are making excessive profits, but in addition there is strong evidence that the high cost of insurance in Ontario is systematic. The insurance industry in Ontario is wallowing under the weight of its own massive bureaucracy. The creation of the rate review board, as currently proposed, will simply add to the already huge insurance structure in Ontario, further burdening the taxpayers of this province while failing to deal with the true problems within the system.

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A study carried out by the consulting firm of Woods Gordon for the province of Ontario and published in 1978 found that for the period 1971-76 the operating costs of the public insurance plans of western Canada were roughly half those of the private insurance system in Ontario. In the private firms, 41 per cent of the premiums were used on operating costs against 21 per cent in the public plans. More recent statistics based on IBC figures suggest private companies now spend as much as 42.5 cents of every premium dollar on operating costs. The Manitoba Public Insurance Corp. spends 20.4 cents on every premium dollar on operating costs while the public system in British Columbia spends only 20 cents. We feel there is ample evidence to suggest that the insurance system in Ontario is in need of basic restructuring.

The FIA recommends that an independent study be commissioned by the province making a direct comparison between the public systems of western Canada and the private insurance system in Ontario, and that the comparison be applied to conditions as they exist in Ontario. We further recommend that as part of the same report there be included an economic impact study forecasting the impact of a public system on the economy of the province. The economic impact study is crucial. Money spent on insurance premiums in Ontario does little to stimulate the economy of the province and has, we believe, the economic value of a factory producing colour TV sets that, upon assembly, are placed on a conveyor belt leading into the ocean. The insurance industry produces nothing.

Public plans keep more money in the hands of consumers, which can then be spent on consumer goods, which in turn creates jobs. Furthermore, public plans invest their reserve funds within Canada and the community. Unfortunately, the same cannot be said for the private insurance industry. In addition, the rates charged commercial, service and industrial clients have seriously hindered the operation of these businesses and further increased costs to the consumers.

The FIA believes Bill 2 does little more than maintain the status quo. It provides assurances that insurance company profits will be maintained but

does not ensure that the burden of excessive rates will be lifted off the backs of Ontario motorists, taxicabs, the motor coach industry and the trucking and service industries. It makes no attempt to address the structural flaws within the private insurance system and turns a blind eye to the economic hardship the insurance crisis has caused in Ontario. In short, it is a disaster for the motorists, taxpayers and economy of Ontario.

Mr. Runciman: Could you tell us a little bit about the Fair Insurance Alliance of Ontario? Who do you represent? How many members do you have?

Mr. McBain: Quite honestly, we are in our embryonic stages. We are quite new. We have only a handful of members at this time. We are having discussions with various industry and other groups to include themselves in the group. We are at our formative stage right now.

Mr. Runciman: When did you initially begin this process, in 1987?

Mr. McBain: Yes, late 1987, within the last three or four months.

Mr. Runciman: Following the provincial election?

Mr. McBain: Following the provincial election.

Mr. Runciman: Do you have any funding resources?

Mr. McBain: Not at the moment. As I say, we are looking around for funding. There seems likely to be some forthcoming from a number of groups we have been in contact with that will hopefully associate themselves with the group, but right now we do not have any public funding and it is largely volunteer.

Mr. Runciman: Do you have any ties to any political party?

Mr. McBain: Not directly, no.

Mr. Runciman: What does that mean?

Mr. McBain: No, we do not have a tie to a political party.

Mr. Runciman: What about your indirect ties?

Mr. McBain: Indirect ties? I personally am a member of the New Democratic Party. However, that is not the case with everyone involved in the group.

Mr. Runciman: OK, we appreciate that.

You have been making considerable reference to Manitoba in your presentation. I just wonder if you read the press reports this morning in the Toronto Star and the Globe and Mail about the public demonstration at the Legislature in Manitoba. The lead line in the Star story is, "Manitoba's...love affair with public automobile insurance died on the icy steps of the Legislature yesterday."

You have talked about what you believe. You suggest quite clearly that the insurance companies are selling us a bill of goods in terms of their losses, \$300 million. Here is the public corporation you have been saying such

nice things about in a much smaller province in terms of the number of drivers and population, and it lost \$58 million last year. If you take a look at the number of drivers in Manitoba versus the number of drivers in Ontario and look at the losses, the public operation versus the private operation just in the last year, I think you may want to reassess your comments about the credibility of the Ontario figures.

You mentioned as well the question of investments. This will be discussed in more detail this afternoon, but the investment portfolio in Manitoba has not been all that productive because of government interference in direction of the investment portfolio. Obviously, that has not been the case in British Columbia. They seem to have done quite well but I suggest that may be because they do not have a New Democratic Party government in British Columbia.

In any event, I guess I personally have a great deal of difficulty with your submission and some of the statements you make in it. Thank you.

Mr. Keyes: I would have to follow along the same line, Mr. McBain, because I do not think I have seen a presentation in our two weeks of hearings that seems really not to dwell on the facts of the issue. But since you do represent an organization, it is only fair to ask for the record--you said you have a handful of people--for the names of five people, insurance companies that are members of the alliance.

Mr. McBain: Insurance companies?

Mr. Keyes: You have said the "Fair Insurance Alliance," so give me the names of five groups that exist in that organization.

Mr. McBain: There are no insurance companies involved in the group at this time. We have not approached any. We have approached a number of industrial and consumer groups for their participation. They are considering that. We have had positive feedback. We are expecting that to be solidified in the near future. As I say, this group is in its embryonic stage and I am not at liberty to provide that right now.

Mr. Keyes: So really, there are no members belonging to the Fair Insurance Alliance of Ontario. It does not consist of anyone except William McBain.

Mr. McBain: There are other interested parties.

Mr. Keyes: Individuals. So there are no groups or recognized groups (inaudible). Let the record show that. On page 4 in particular, the statement there is just really right off the wall, I must say. To say that the insurance industry produces nothing in this country cannot be left that way. The multimillions of dollars in their investment portfolios are certainly things. There is the employment they create, the consumer consumption, the thousands of employees. I feel you really have not spent much time looking at the whole impact of insurance on this province and on the motorists or the taxpayers. As a result, I do not think you have really studied it.

We know there are problems in the insurance industry. We certainly know from the presentations that all is not well with the system in Manitoba, as was already mentioned by Mr. Runciman. All we have to do is look at the increases. You have to look at British Columbia and notice that there are, in the last eight years, 130 per cent increases in their premiums even though Mr.

Swart likes to say it is only about 35 per cent over the last six years, because that has the nice advantage of having 1986, when you dropped six percentage points.

There are problems in the industry, whether you see it in BC, Manitoba, Saskatchewan or Ontario. I suggest to you that what we are here for is to try to find what type of amendments can be made. What are the benefits we can take out of those plans to come up with a better system?

I trust your organization might spend a little more time on some of those changes that might be made that are more positive.

Mr. McBain: May I respond?

Mr. Chairman: Sure.

Mr. McBain: I think Mr. Runciman's and Mr. Keyes's remarks highlight one of the problems that exist with this debate in Ontario. In our discussion with various groups in the industry, the motor coach industry in particular, one of the things they expressed to us was a real confusion, a real concern, over the various statistics that either side of the debate was throwing forth.

Mr. Swart and the NDP would provide various statistics that would show the benefit of public auto insurance in Ontario and its economic benefits. On the other hand, the Liberal Party and the insurance lobby would provide opposite statistics and there was real confusion. I recognize that and I think that is a problem. The availability of independent statistics is a real problem for this debate in the province. That is why we recommend there be an independent study of economic impact and a study comparing the two plans, the private system in Ontario and the public system in the west, to provide a sort of independent source of facts and statistics to all the groups involved in the province and in the debate.

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Mr. Keyes: Maybe since you are responding, I can ask this: Could you table before us any statistic the government has put forward in here that was trying to prove a case there? I suggest to you we have not put forth any group of statistics. We have certainly had lots of them from the NDP side, but I do not think the government side has put forth any statistics in a sense. We have talked about a revision of program and what we have put forth are plans, concepts, drafts, classifications, all of that. I just do not think you can--

Mr. Chairman: I think the question is, can you name a statistic?

Mr. Keyes: That is right.

Mr. McBain: Can I name a statistic? I can name a statistic coming from the Insurance Bureau of Canada.

Mr. Keyes: But that is not us. That is the Insurance Bureau of Canada.

Mr. McBain: I make the case that there was a close association between the insurance lobby and various political parties in the last provincial election.

The point I want to make is that, for instance, in the debate on the

relative expense of operating costs in one system or the other, the relative loss in one system or the other, where the moneys were coming from to make up loss in the public plan and that sort of thing, they have been at variance over the last few months.

For instance, the Insurance Bureau of Canada suggested that the Saskatchewan Insurance Corp. lost in the neighbourhood of \$50 million in the early 1980s, implying that loss was sustained by the automobile insurance sector of that corporation, when in fact that was not the case, or at least, the case provided by the other side of the argument was that this loss was not sustained by the automobile sector of the Saskatchewan corporation.

Therefore, what I am suggesting is that there are a lot of varying facts, opposing facts or statistics that are thrown out in the air by both sides in the debate. What I am clearly doing here is creating two camps, not three or four, those who are opposed and those who are for a public insurance corporation or a public insurance plan. This province should consider making a comparative study of the different plans and of the economic impact of both on the province to provide an independent source of statistics for debate in this province which, at this time, I feel, does not exist in a meaningful way.

Mr. Chairman: Mr. Kanter, do you have a question?

Mr. Kanter: Mr. Keyes really covered my point. The point is that we are trying to evaluate these statistics, not to come forward with them.

Mr. Chairman: Mr. Hampton.

Mr. Hampton: I want to go to what I consider to be the central part of your brief to just confirm something. Is it fair to say that you feel there is a great deal of confusion out there among the public as to how various private and public auto insurance plans work?

Mr. McBain: That is correct.

Mr. Hampton: Is it fair to say that you believe some of that confusion has resulted from statistics provided either by the Insurance Bureau of Canada or the Insurance Brokers Association of Ontario--

Mr. Chairman: Excuse me, Mr. Hampton. Mr. McBain, would you get closer to the microphone because this is all being recorded and they are having difficulty picking it up.

Mr. Hampton: --and the discrepancy between those figures and figures that may have been presented by the New Democratic Party in the recent election campaign?

Mr. McBain: Yes.

Mr. Hampton: Is it your position that, so the public can be clearly informed as to what this debate is about, what you feel ought to be done is there ought to be a clear study which evaluates the public plans in western Canada and looks, in comparison, at some aspects of the private industry?

Mr. McBain: That is exactly what I am suggesting.

Mr. Hampton: You were asked by Mr. Keyes if you could present statistics and so on that would indicate the position the government has

taken, or statistics presented by the government. I believe you indicated you did not have any right now. I wonder if I could ask you to look not only for statistics but also for comments that may have been made by various members of the government, say, within the last six or seven months. If you can find those comments on the public record, you could forward them to us.

Mr. McBain: I would be happy to.

Mr. Hampton: Finally, is it your position that the whole focus of this bill, Bill 2, does not address the confusion that is out there among the public as to how private insurance plans operate and how public insurance plans operate?

Mr. McBain: I do not think it addresses the subject at all.

Mr. Hampton: I note you make a further comment about the draft proposals for rate reclassification that have been put forward by the government. Is it your view that if these draft proposals are implemented and after they are implemented, there may be some change but there will not be significant change in the premiums that are being paid by various groups who feel they are discriminated against now, for instance, young males, etc.?

Mr. McBain: It seems to me that the overall premium burden on motorists in Ontario is not going to change at all. There may be some slight decrease in male rates and a slight increase in female rates under the age of 25, but I think it is fair to say that there is going to be very little change. I have noted that there are other groups who feel the same way.

Mr. Hampton: I just wanted to make one comment and it is at variance with what Mr. Keyes and Mr. Runciman said. You have raised some serious issues here. Some members of the committee may disagree with your issues, but at least you appear to have stayed out of launching all sorts of ideological claims or all sorts of claims about hidden subsidies and dishonest subsidies and so on.

I believe you should be congratulated for that, because we heard submissions in Thunder Bay that I found quite shocking. I was equally shocked that no other members of the committee were shocked by the comments that were made. These comments indicated that the Insurance Corp. of British Columbia somehow was bankrupt and only survived by means of government subsidy and loans.

Mr. Chairman: I do not want to interrupt, but the witness is there for the purpose of answering questions. If you do not need him any longer, we will ask him--

Mr. Cureatz: Mr. Swart is his mentor.

Mr. Swart: I would be proud of that.

Mr. Hampton: I merely make those comments in response to the comments that you previously allowed here today.

Mr. Chairman: If you have further questions of the witness--

Mr. Hampton: No, I have no further questions.

Mr. Chairman: Are there any further questions of the witness? The

only thing I am curious about is that, on page 2 of your brief, you say, "The report by William M. Mercer Ltd., the draft proposal of the rate classification committee and the willingness of the government to maintain rate discrimination based on age forces us to agree with the conclusion drawn earlier." Do you have a copy of the rate classification committee's report?

Mr. McBain: There is a draft--

Mr. Chairman: Where did you get that?

Mr. McBain: I was quoting largely from the--

Mr. Chairman: Have you got a copy of the classifications?

Mr. McBain: Here is a draft of A Classification System for Automobile Insurance: A Draft for Consultation. Here is a copy of that.

Mr. Chairman: Where did you get that from?

Mr. McBain: I received it in the mail from Mr. Swart's office.

1130

Mr. Swart: I just have one question. I wonder if Mr. McBain is aware that when we were at Windsor, Terry Taylor, the president of the Insurance Brokers Association of Ontario, admitted publicly before this committee that the \$72 million figure was incorrect. He stated it was for crop losses and such things, not for auto insurance. That is quite an admission when we hear elsewhere hear today from British Columbia that all the other accusations are equally false. I did not know whether you knew that or not.

Mr. McBain: I would like to make a couple of further comments. A representative of the IBAO on the CKO radio network last week, in response to questions about the percentage of each premium dollar going towards operating expenses, claimed that it was 21 per cent. That was in the face of figures from Woods Gordon and from the Insurance Bureau of Canada suggesting that the operating costs ran somewhere between 36 per cent and 42 per cent of the premium dollar. It is just another example of all the misleading figures that are being put before the public.

Mr. Chairman: Maybe we should have that person before us, because I think we have had difficulty before in terms of hearsay evidence.

Mr. McBain: That is hearsay but it should be for the record. It was stated publicly on the network.

Mr. Swart: A decision backed by the Insurance Bureau of Canada. I have some questions I would like to ask them now.

Mr. Chairman: As chairman, I do not get to ask many questions, but there are quite a few I would like to ask if I were sitting on this committee outside of the chair on this item. Mr. Nixon, you have one minute.

Mr. J. B. Nixon: Mr. McBain, you made the comment that the government has no interest in making any analysis of the western systems. For your information, and contrary to what you may have been told by other members, Mr. Justice Osborne whom you may have heard of is studying the no-fault option and he was specifically mandated to study the advantages and

disadvantages of a public versus private delivery system. So, in fact, that is being done. You may not have been aware of it. If you were aware of it, you are wrong.

Second, the problem the government has in this statistical battle apparently between the New Democratic Party and the Insurance Bureau of Canada is that we are not sure either is credible. The value of a rate review board is that it will get that information.

Mr. Chairman: Thank you very much, Mr. McBain. With those parting comments, we appreciate your attendance before the committee.

Mr. Swart: We resent being classed with the IBC.

Mr. Chairman: We are trying to locate our next presenter. Perhaps while the clerk is trying to locate him, this would be time to have a brief adjournment for those of us who still have that nasty habit, like Nixon and who else? We stand adjourned for about five minutes.

The committee recessed at 11:32 a.m.

1140

Mr. Chairman: We are back in session. I have been advised by the clerk that Mr. Surge, who was coming here from Beaverton, is not here, nor can we reach him. What does the committee wish to do? He can certainly send in a brief, which would become part of the record.

Mr. Swart: Perhaps we can wait another five minutes until 11:45. Do you know whether he is coming or not? You have not heard anything?

Clerk of the Committee: We could not get an answer at his office.

Mr. Swart: It seems to me maybe we should wait a few more minutes.

Mr. Chairman: That sounds fair. If he is coming all the way from Beaverton, there is not much point in denying him access to the committee. We will adjourn then until 11:45. Does that sound fair?

Mr. Swart: I just want to say I do have real concerns. The decision was made, I think for the first time this morning, that we were going to stay right to the minute on the time with the ICBC. We have run substantially over on quite a lot of others, the insurance industry and others, and I think when it is such an important issue--many people had questions they wanted to ask, including myself--we should have gone over some this morning as well. I think it would have been fair. I just want to make that point. I leave it with you.

Mr. Cureatz: Mr. Chairman, I think you were fair. I mean these things are tough. How do you know?

Mr. Swart: I am not suggesting he was not fair in allotting. I am just saying there was very little time allotted.

Mr. Chairman: It is unfortunate that we did not give the gentleman the hook to keep him here.

Mr. Cureatz: I found it quite interesting myself, Mr. Swart, and if

I had thought the next witness would not come, I would have enjoyed listening to him.

Mr. Hampton: Mr. Chairman, if I could pick up on the point that Mr. Swart has brought forward, at least in Windsor and in Thunder Bay, when we did go over time, I do not think it drastically interfered with the work of the committee. I know the clerk was very hungry on the one day, but--

Mr. Chairman: I will have to take the responsibility for that. Your comment may be appropriate. It is unfortunate that the man did not stay around. We could have filled him in afterwards. Do we know where he is? Is he going back out to the airport?

Clerk of the Committee: I do not know where he is staying. I have looked outside for him. I thought perhaps he might be catching a cab because he was outside until just a couple of minutes ago but I missed him when I went looking for him. He was not out front.

Mr. Swart: He told me he was going to another meeting.

Clerk of the Committee: Yes. He was not here just for our hearings. He was here for other business as well.

Mr. Chairman: All I can say is I looked at the agenda we had for today and I felt that we had to try to get all the--I was particularly concerned about the two individuals from Manitoba this afternoon. If we did not reach them, we would have to bring them back because we are not sitting tomorrow and we are in Sudbury on Monday, so we would really be talking about bringing them back on Tuesday or keeping them here. That was my major concern. If I erred in that regard, my apologies to the committee.

Mr. Kanter: If I may make a comment in that regard, some of us have a meeting this afternoon at five o'clock. I think it is important to hear both representatives from Manitoba. While I appreciate Mr. Swart's concern, this afternoon we do have a full schedule, and I hope we can stick to it fairly closely so that we can hear the two representatives from Manitoba and give them each a good half hour.

Mr. Chairman: Perhaps to try to remedy the observation that has been made, if it is not putting too much of a burden on the clerk of the committee, she could see if she can locate this gentleman. If he can be brought back after lunch--

Mr. Swart: Are you talking about Mr. Holmes? I have no way of locating him. I have no idea where he has gone.

Mr. Cureatz: Mr. Chairman, it has passed. Let us carry on with the afternoon's agenda.

Mr. Chairman: Mr. Surge is not here, and we were adjourning to 11:45. It is now just about 11:45. What is the wish of the committee?

Mr. Cureatz: Why don't we adjourn and resume at two o'clock?

Mr. Chairman: Do we have consensus on that aspect? OK. We stand adjourned until two o'clock.

The committee recessed at 11:45 a.m.

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE
ONTARIO AUTOMOBILE INSURANCE BOARD ACT
THURSDAY, JANUARY 28, 1988
Afternoon Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Farnan, Michael (Cambridge NDP)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Poole, Dianne (Eglinton L)

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Substitutions:

Dietsch, Michael M. (St. Catharines-Brock L) for Mr. Chiarelli

Runciman, Robert W. (Leeds-Grenville PC) for Mr. Sterling

Swart, Mel (Welland-Thorold NDP) for Mr. Farnan

Clerk: Mellor, Lynn

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the Jock Shields Driving School Ltd.:

Shields, Jock, President

From the Wellington Insurance Co.:

Wallace, Murray, President

Andrachuk, John S., Senior Vice-President, Finance

From the Manitoba Public Insurance Corp.:

Dribnenky, Henry, Vice-President, Finance and Administration

Barbour, Gary, Autopact Services Manager

Zacharias, Jack, Automobile Claims Manager

From the Manitoba Legislative Assembly:

Bessey, Michael, Director of Research, Office of the Leader of the Opposition

From the Ministry of Financial Institutions:

Nixon, J. Bradford, Parliamentary Assistant to the Minister of Financial
Institutions (York Mills L)

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, January 28, 1988

The committee resumed at 2:05 p.m. in room 151.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT
(continued)

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

Mr. Chairman: The first delegation today is Jock Shields, president of Jock Shields Driving School. Would you come forward please and have a set in any one of the three chairs you like. The exhibit is 58. For the benefit of Hansard, perhaps you can identify yourself. If you were not here this morning, we have a fairly full afternoon and we have you slated for half an hour. Please read your brief, if that is what you wish to do, and we will leave time open for the members to ask questions. Please proceed.

JOCK SHIELDS

Mr. Shields: Thank you very much, Mr. Chairman and members of the standing committee on administration of justice. I welcome this opportunity to speak to you today to bring out a topic that I believe is of importance in Ontario, and in particular with the great effort that has been made by the present government, and also the previous government, in the promotion of public safety on the roads and highways in this province with the aim of reducing the number of traffic injuries and fatalities.

The insurance premium discounts that insurance companies have been giving to driver education graduates of approved and recognized driving school courses has been on and off throughout the years. In fact, in 1984 President Ted Belton of the Insurers' Advisory Organization recommended to the insurance companies that belonged to his association that they should do away with insurance premium reductions for those who have taken an approved driving school course. Fortunately, in 1984 the insurance companies rejected that and continued. At the same time, in a Canadian Press article that appeared in the London Free Press on August 22, 1984, the government of Ontario advised at that time that it was doing something to improve and upgrade the standards for driver education in this province.

The approved driver education courses that are recognized by the insurance companies for insurance premium discounts are those graduates who have taken a community college course, a high school course or an Ontario Safety League professional driving school course. The Ontario government went to work and, after four years of intensive research, it developed a brand-new curriculum for the high schools which consists of 25 hours in the classroom, 10 hours of behind-the-wheel instruction and 20 hours of observation. In 1985 it came out with a Road Worthy textbook, which is used in our high schools. It was issued under the signature of George McCague, who was at that time the Minister of Transportation and Communications. There is also a Road Worthy Classroom Teachers' Manual and a Road Worthy In-Car Instructors' Manual, which are very condensed. Of course, it is real in-depth criteria that are used for our students at the present time.

The present government has also pursued and improved the standards as well along the same line as had been started under the previous government. The number of students taking driver education today is about 55 per cent of all brand-new drivers. A lot of this curriculum that was developed and issued in 1985 was as a result of recommendations by the Ontario select committee on highway safety. I notice that the Honourable Bob Nixon was also one of the members on that select committee. There were some 54 recommendations. One was to upgrade the standards required for the high school driver ed program and the professional driving schools in this province.

We train about 1,000 teenagers every year in London, Ontario, where I come from. I also teach in the Catholic separate school board in London, and we train approximately 250 students out of that 1,000. So I am on both sides of the fence, teaching either in the high school system or in the professional driving school system. We made quite a survey of parents and students to ask why they are having their children take an authorized driving school course, and I would say it is probably split pretty well down the middle: "We are getting quite a hefty driver education discount," which pretty well offsets the cost of taking--

Mr. Chairman: Can I interrupt you for a second? I presume you are not going to read the brief after this?

Mr. Shields: No, because you can read the brief as well as I can.

Mr. Chairman: That is fine.

Mr. Shields: I think it would be an insult to one's intelligence if I read this.

Mr. Chairman: You would be surprised how many times our intelligence has been insulted in various committees.

Mr. Shields: There is nothing worse than a teacher in a classroom who says, "I am going to teach you today," and he reads word by word. Get out of the classroom; that is no teacher. If I do not know what I am talking about, I do not need a brief, anyway. You ladies and gentlemen can read that as well as I can, so I am just trying to touch the highlights on this.

Now, the importance of continuing support by the insurance industry is that if they discontinue supporting driver education in this province, I think it is going to be very bad for the overall emphasis that we have been able to develop on taking driver education.

That should not really be the criterion for one to take driver education. It really should be, "Are you going to teach my son or daughter to drive safely and try to avoid getting into those difficult situations once they are out on the road?" But in a lot of cases it is the bottom line that decides whether or not one is going to take a driver education course or is going to learn to drive just on his own. Of course, we know that driver education has been validated as being a viable course. It does help to reduce accidents.

I would like to congratulate the insurance industry, because this can amount to several hundreds of dollars, a \$500 or \$600 discount in a good many cases, once they have taken an approved driving course in one of the high schools, community colleges or professional driving schools. If that were done away with, I would say that instead of 55 per cent taking some sort of

approved driving school course, we probably would drop down to the 1977 levels of 12 to 15 per cent, with a resulting higher rate of accidents on our highways in this province.

I mentioned at the beginning and also in the brief that on August 22, 1984, a Canadian Press release quoted Ted Belton, president of the Insurers' Advisory Organization of Canada, as stating that driver education does not seem to be doing any good for those who take driver ed courses compared to those who did not. I remember being interviewed by the newspaper at that time, and I came out quite bluntly and said it would appear to be a ploy by the insurance industry to raise rates indirectly and do away with driver education.

Two days later Ted Belton, in a Globe and Mail article on August 24, 1985, stated that the data that had been supplied by support staff were faulty and he confirmed very positively that driver education does have a very decided result in reducing the accidents in this province. His recommendation then was that insurance premium discounts should be continued for those taking an authorized driving school course.

The recommendation I am making, and also on behalf of my colleagues of the Driving School Association of Ontario, the Ontario Safety League, the high school driver education instructors and the community college instructors, is that we should stress with the insurance companies that this should be one of the factors considered when they are setting the rates for the insurance premium discounts. If one has taken a driver education course through an authorized driving school, one should be allowed an insurance premium discount.

I believe that summarizes my thoughts on this and why I want to bring this to your attention. I am hoping you will put in your recommendation that insurance premium discounts shall be continued for those who have taken an approved driving school course. I would be glad to be open to any questions if any of you might happen to have any.

Mr. Sola: You state that you are both a high school and a professional driving school instructor.

Mr. Shields: Yes. I will tell you how I am able to be in that unique position. My profession, before I made a career in the Canadian army, was that of public school principal. I am the director of the driver education program for the Catholic school board in London. I am qualified for that because, first of all, I have my credentials as a school teacher in this province. Second, I have taken the Ontario Ministry of Education qualifying course so that I can teach in any high school throughout the province or in a professional driving school recognized by the Ontario Safety League. So I am able to go both ways. I also have three daughters who also are all teachers. One of my daughters is also a qualified instructor through the university qualifications.

Mr. Sola: I was not questioning your qualifications. I was just interested in comparing the quality of instruction in the two systems. Are they compatible, are they comparable or is there a great discrepancy between the two?

Mr. Shields: No. We are using the same subject material for both the professional driving schools and the high schools. The only difference in the high school driver ed program primarily is that it has 25 hours of instruction in classroom and we have 25 hours in a professional driving school, but we do not have to give the 20 hours of observation in the professional driving schools recognized by the Ontario Safety League.

You have three students in a car when you are training through the high school. They each would have an hour's driving and two hours of observation, so at the end of 10 sessions they have 20 hours of observation and 10 hours behind the wheel. You have three to one with that system, and with our regular system through the professional driving school, one to one. Curriculum for the classroom is essentially the same quality. We are monitored the same way. The insurance companies recognize either the high school driver ed program or the Ontario Safety League program. The OSL has the mandate to monitor professional driving schools to ensure that they uphold a standard that is equivalent to the high school driver ed program.

Mr. Sola: In the professional system you would get 30 hours' driving experience as compared to 10 hours' driving experience in the high school system? Is that correct?

Mr. Shields: They would have 20 hours of observation whereas with the professional driving school they would not be required to take the observation.

Mr. Sola: All their in-car instruction would be behind the wheel.

Mr. Shields: That is correct. They would have 10 hours behind the wheel as well, but it would be one on one: one instructor, one student. In the high school it is one instructor, three students. You would have two riding in the back seat observing while the other one is driving, and then they rotate.

Mr. Sola: Do you think they gain any benefit from observing a fellow student driving as compared to sitting behind the wheel and going through the mechanical--

Mr. Shields: I have done some extensive surveys on this, with both the parents and the students taking the high school driver ed program, and there seems to be a mixed feeling on this. Some parents say, "Look, ever since Sally, or Jimmy, has been knee-high to a grasshopper, they have been observing people driving." If you happen to have a bad mix of students--let us say you have two good students and one very poor student--that poor student will tend to be a little bit inhibited when he starts to drive because he will think, "Gosh, if I do something wrong, the two people in the back will think I am a dumb-bunny; and if I do not do something, they will think I am a dumb-bunny." I think there can be a certain amount of inhibition.

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Yet I had a mother last week who phoned me. Their particular daughter got 100 per cent on her road test, which was through the high school program. We always give them a gratuity of \$50 when they are so successful at their driving test. She had had very mixed feelings initially about having three to one, and then she turned around and said, "I am completely sold on that." I would say about 50 per cent of the students themselves think it is good and 50 per cent think it is not.

A lot depends on the instructor, too, because that is your classroom. The personality and the technique of instruction are very important, and controlling those three in the car and keeping them occupied at the same time.

Mr. Sola: As an instructor, what would your opinion be? Which is more beneficial?

Mr. Shields: I myself still tend to feel at this stage that I get a little better driver with one on one, because if I have to dig him--and sometimes you do have to--I do not like to have to do that in front of someone else. They are doing their best. They are motivated or they would not be taking driver education to begin with. Yet there can be merit on this observation as well. Some said, "You know, you see what one is doing is wrong, what he is doing right, the mistakes he is making and you learn by that."

I am split on that right now. I tend to feel I get a little better driver on that one-on-one approach rather than the three to one, yet we have had equally favourable results on both sides.

Mr. Sola: Do the insurance companies give equal recognition?

Mr. Shields: That is correct. There is equal recognition for those who happen to be in an Ontario Safety League professional driving school or those who take the high school driver ed program.

I think one of the incentives for students to take the high school driver ed program compared to the professional driving schools is that there is a grant given by the province of Ontario to the high schools and community colleges which amounts to roughly \$50 per student.

The high schools also have the resources of secretarial staff. They have got a captive audience and they have got a classroom fully paid for; they do not need to worry about additional expenses. The school boards also subsidize the driver ed program either directly or indirectly, whereas at the professional driving schools we do not have any of those benefits and we have to charge the costs of running that course right up front.

Mr. Sola: Thank you very much.

Mr. Runciman: I just wonder if you could tell us what kind of benefit there is for a driver who has successfully taken a course. I gather it varies from insurance company to insurance company. It is not a standard approach.

Mr. Shields: I get all age groups and quite often I will get people in their 30s, 40s, 50s and also senior citizens 80 and over who have to go every year. I can measure pretty well from the time when I first learned to drive around Lansdowne and Brockville, Ontario, and of course Chief Young, who was a big policeman, gave me heck the first time I stalled a truck on King Street in Brockville. I learned to drive just on my own in those days. We did not have any cops around Lansdowne, of course, and no one would ratfink on you. But you cannot get away with that today. We did not have the high-speed traffic or the number of cars that we have today.

I think there is an added benefit. Quite often I will get parents who come to me afterward and say: "Jock, I have learned more from what my son and daughter tell me since they started to take driver ed. I wish I had had that benefit." I think there is a very decided benefit for one who does take driver ed, and the standards have increased. When I first started in 1977 in the driving school and started my own business at that time, we were required to have only six hours behind the wheel. We are now up to 10 hours. I can see a big, big difference in the quality of student who is being put out, and we monitor them through the years. I will get feedback and we find that it does help them stay accident-free.

Of course, attitude is a big thing with all of these high school students. You and I can preach to them for a million years, but if once they go out the door, they say, "Oh, they don't know what they're talking about," squeal rubber and have a bad attitude. There is the whole key too, I think.

Mr. Runciman: I guess what I was trying to get at is, what does it mean to a consumer in terms of dollars on his insurance rates?

Mr. Shields: Considerable. I had a 19-year-old student last year, her first job, her first car and, naturally, who does she go to for insurance? "Hey, mum and dad, who has your insurance?" So she goes to dear old Joe who has been their agent for the last 15 years.

What I stress with the students, and I usually do the lecturing about insurance, is: "Make sure you do not rip yourself off. Do your homework. Get out and check because there are about 200 insurance companies doing business in this province." This 19-year-old young lady is going to be paying \$1,200 a year. When they finish the driver education course, they start off as if they have been driving safely for three years. That is the criterion the insurance companies use.

Mr. Runciman: All of them?

Mr. Shields: All of them. Anyone who has taken an approved driver ed course will start off as a three-year good, safe driver. She had the driver ed certificate at that time as well, and I asked her, "Did you do any more checking?" She said, "Oh, no, mum says to go to Joe." I said: "Here, there are another four or five. Dig more out of the yellow pages in the telephone book." She came back to me three days later and said: "Guess what? My insurance is going to be \$650," (a) as a result of the driver ed certificate and (b) by doing a little bit of homework. Even with the other one, instead of \$1,200, it would have cost her \$1,800. So they can save \$500 or \$600 at least.

Mr. Dietsch: Are you aware that there is some difference in whether an insurance company will even cover young drivers if it does not have the business of their parents?

Mr. Shields: It depends on who owns the car. If the student is going to be driving mum's or dad's car, they have no choice at all because they only go on as a rider to the insurance policy of the owner of that car. But if they are buying their own car, then they have a choice of going to whatever company they wish.

For example, Mr. Runciman asked whether all companies give the same rate. I ran into a situation with one of the families in which I was training the young lad, State Farm. If he was going to be buying his own car, there would be quite a decided benefit for him taking driver ed, but if he was going to continue driving dad's car as a casual driver, there would be no benefits whatsoever.

But in the majority of cases, I would say 95 per cent of the cases, insurance companies recognize a driver ed certificate for insurance premium discount. It is a great incentive for them because there are a lot of people who probably would not be able to afford to take driver ed if it was not for that. It is an added incentive, and they have learned how to drive safely at the same time.

Mr. Runciman: Does the same benefit apply to the older learner, the 40- or 45-year-old learner?

Mr. Shields: To all new drivers, regardless of age.

Mr. Runciman: Before Mr. Shields departs, I would appreciate hearing the parliamentary assistant's views on Mr. Shields's submission.

Mr. Chairman: Are you finished with your questions, Mr. Runciman? I will go to Mr. Swart.

Mr. Swart: I would like to follow up on some of the questions that have been asked. Do you have any statistics--I presume that the Insurance Bureau of Canada or the Insurers' Advisory Organization would have them--that show the relative rates of accidents for young drivers who have had the driver training and those who have not?

Mr. Shields: This is the unfortunate thing, and I have challenged some of the insurance industry speakers at some of our convention meetings. There is a DeKalb study done in Georgia by Professor Jack Weaver who is a professor of driver education, recently retired. Several years ago, a study came out and, of course, insurance companies were using that.

Initially, the study seemed to indicate no viable difference between those who took driver ed and those who did not take driver ed. Jack has done further research and I was speaking to him a couple of weeks ago. He is now running a safety consultant business in Florida. He said: "Jock, I am glad to say that driver education is viable. Some of the parameters that we were using were faulty. There is a decided advantage for someone who has taken driver ed compared to someone who has not."

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I used to challenge these speakers who said: "We should not have any discount. There is no advantage to it." There is no tracking even by the Ontario government, and I think it would be quite easy if at the time people happened to get their licences, right at the licence bureau, they were asked, "Have you had an approved driver ed course at high school, community college or an Ontario Safety League school?" They could just put that in as another tick mark and track them on the computer.

The figure I happened to get here, where I mention 55 per cent of all new drivers are now taking driver ed, I obtained from a source at the Ministry of Transportation. Again, that was garnered from data that he got from the high schools and community colleges and directly from OSL. There really is no tracking at this time and this is one of the problems we are faced with for the insurance companies. We keep asking.

One of the things that we are concerned with is public car insurance. In British Columbia they have public car insurance. Once the Insurance Corp. of British Columbia took over, it did away with driver education insurance discounts altogether. As a result, the whole basis for driver education just fell flat on its face. I have not seen any of their statistics lately, but it certainly has made quite a difference in the public safety record of that province.

We are improving. That report put out by the Honourable Ed Fulton in 1986 has certainly indicated that our drivers are getting better. It will take a generation before we will see a decided improvement, because most of us in my age group never took driver education. We just learned on our own. Today, I think it is an essential requirement for anyone who is operating a motor vehicle.

Mr. Swart: My understanding out there--although you are right that the rates were made uniform--is that the driver training courses are much more extensive now than they were before and that the accident rates, although they are much higher in Ontario, have dropped fairly dramatically in recent years.

I wanted to ask you also, do you feel, as I do, that perhaps those young people who most need driver training are the ones who are least likely to take it? The ones who are boisterous--

Mr. Shields: It is rather interesting. I have been following the marks of our students in their high schools. I find those who have good high school marks invariably do well in their driver ed program. Those who are down in their marks--maybe this is partly attitude. It might be true, what you say, that they probably need it most really.

There could be two reasons, an economic aspect too, because you are talking about roughly \$300 for a driver ed program today and that is a lot of money up front, even though it pays off in the long run. Many of our people just do not have that kind of money. Maybe compulsory driver education is the answer down the road.

Mr. Swart: That was my final question. Do you believe that it would be wise to have compulsory driver education?

Mr. Shields: I do. I fully support that. There should be compulsory driver education in this province. It would certainly benefit, in the long run, in cutting down on our fatalities and the economic loss we are suffering each year. We are up to 55 per cent now. It will probably take another generation to bring it up a little bit higher, but I certainly would support that, as an educator. In another couple of years, I will be out of this game but I believe that very strongly. If I did not, I would not be here today.

Mr. Chairman: Mr. Nixon may have some comments, I understand.

Mr. J. B. Nixon: I would just like to say I think it is an excellent presentation. The point you are making is a point well worth taking.

The uniform classification system which is going to be prescribed in regulation by the government and which the rate board will use in setting rates has a variable, which is the question of whether the individual has taken driver education or a driver training course. If so, it will result in a reduced rate.

You mention the problems you have had about tracking statistics. You and I can agree that the statistics do not exist, have not been tracked. However, once the rate board is operational with the class system and has control of the database and starts accumulating that information, we will have the statistical data necessary to justify the discount. So we are of similar minds.

Mr. Shields: That is good. I understand the Ministry of Transportation has recently developed a new program--it is just kicking off in March--in which traffic violators are now going to be subjected to group interview rather than one on one. I have attended some of these traffic violators' schools. They used to operate about three here in Toronto. Now it is down to one, I understand, in North York, primarily because it was at the discretion of the judges, whether they want to use the facilities. In most cases, they did not bother using them.

I attended some of them and I think it is a complete waste of time. The

student or the violator went in for about a two-hour lecture and his attitude was the same when he went out as it was when he went in. In a lot of cases, they did not realize--one person said, "What are you here for?" The other said: "Oh, I was squealing my tires. The fuzz has it against me all the time. I can't do anything right." That is his attitude. Also, he does not realize he is doing anything wrong. It is the same with someone who was tail-gating.

I think they need at least one hour of evaluation in the car with an instructor, as well as probably taking a good eight-hour defensive driving classroom course, a matter of films and lectures. That is what I feel the province should be aiming towards.

Mr. Chairman: Thank you very much, Mr. Shields. We appreciate your information. It is certainly a new direction. We have not heard that specifically and we appreciate your input.

Mr. Shields: I thank you very much for the kindness in allowing me to come and appear in front of you to speak for a few minutes. I hope I did not say too much with all my notes that I had here. I really meant to read them all anyway. I would appreciate it very much if you would consider this very thoroughly, and I know you will, having had the pleasure of having met with you.

Please keep in mind that the supplementary support that is being given by the insurance companies today is helping public safety. Don't let them take away driver education discounts for those taking an approved driving school courses. That is my message from Leeds, Ontario. At least I was born in Leeds. I guess I am still Leeds. Thank you very much.

Mr. Chairman: Have a safe trip back to Leeds.

I believe Keith Downing is next.

Mr. Swart: While they are coming forward, Mr. Chairman, I would just say Keith Downing has been in touch with me on numerous occasions and has sent me documentation about the horrendous situation he has had. I suggested it might be of interest to the committee.

Mr. Chairman: I know he is running you for President of North America, so I presume you must have been very helpful to him, Mel, as you probably are to everyone.

Mr. Downing, perhaps you would just have a seat and identify yourself and the young lady to your left. We have your brief before us with rather extensive material. I trust that the material that has been placed before us deals with the lady who is to your left and that she is consenting to this material becoming public, because there are some very personal items in here that we would not want to have public if that were not the case.

As I explained before, we have half an hour slated for your presentation and we would like to allow enough time for questions to be asked. So if you would like to start, identify yourself and then proceed.

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KEITH DOWNING

Mr. Downing: My name is Keith Downing and the lady to the left of me is Katherine Wilson.

Mr. Chairman, honourable members of the committee, perhaps I am oversimplifying the mandate of Bill 2 and this committee, but from an ordinary person's point of view, the reason we are all here is to help you find meaningful resolutions as to what are fair insurance rates.

In doing so, you have listened to many important persons, mostly from insurance companies, insurance brokers and insurance associations, as well as insurance affiliates. I come before you not representing any of the latter, nor do I represent the views of any political party. Indeed, if I had my way, I would probably push free trade through and run Mr. Swart for President of North America.

Mr. Chairman: Do you think that is the result of free trade, that we are going to require a President of North America?

Mr. Swart: Beneficial result.

Mr. Downing: I think there is a lot to think about it.

My only credentials are that I was a police officer for eight years and a private investigator for about 10 years, and this included investigations for insurance companies. As such, I feel myself qualified to ask the important questions and apply my perceptions to arrive at reasonable conclusions.

I have watched the proceedings of this committee and the presentations last week on television. I have also followed the insurance scenario in the media and the House of Commons for the past three years. I do not own a motor vehicle at present, but I, like Mr. Keyes, drove a taxi for a short duration.

All these experiences are somewhat dwarfed, however, by an incident that occurred on July 10, 1983. The motor vehicle accident took only a moment in time, but the events that followed over the last five years proved my greatest educator. It is our hope that these events, when shared with you, will provide a different perspective to the task before you.

It will be necessary for me to wear several hats, that of investigator, victim, consumer advocate and parliamentary observer. We hope that we will be able to tie all our submissions into a meaningful package that makes sense.

We tell you all these things because we think it is extremely important that you scrutinize all submissions with particular emphasis on who is submitting them and, more important, why.

Katherine Wilson is my companion, cohabitant and spouse. She does not drive, possess a licence, nor has she ever owned a motor vehicle, but as a passenger in the accident I mentioned, she received severe and lasting injuries. She had several operations that included the insertion of many steel pins and steel plates into her body. We have brought them, if anybody is interested. As well, she had to have operations, including one leg rebroken, rotated and lengthened. There is some of the metal that has been taken out of Kathy's leg; it is not all of it. We want to show a different perspective on this.

She would have to go into hospital. She would be confined, sometimes in traction, and then she would get out of hospital. She would be in bed, then she could use crutches, then she could walk, and as soon as she could walk moderately, she would have to go into hospital again and repeat the whole scenario. I have no idea of the pain she has suffered. We do not want to dwell on it. We only mention it because we want you to know her state. This went on for about two and a half years.

She had been earning \$500 to \$600 a week prior to the accident. The insurance company never told her about no-fault benefits. The driver of the motor vehicle did. About two months later, Kathy got her first cheque. Payment was \$100.80 per week; it should have been \$140. Cheques were erratic. As well, expense cheques for medical, drugs, prescriptions, etc., did not arrive and sometimes she had to do without because she did not have any money.

Two years after the accident, and because of a personal call to the president of the insurance company, Kathy finally got a letter from the insurers outlining the dates she could expect her cheques. These dates did not even comply with the no-fault benefits in the Insurance Act, but Kathy did not know this at that time, so she was hopeful upon receiving this letter.

There is not time to tell you all the events that happened to Kathy Wilson. We have provided an extensive brief. There is a top drawer of a filing cabinet filled with the whole story, but we tried to pick out the highlights and now we are trying to whittle this down to 15 minutes so we can answer some questions.

This is more than a story of human rights' violations or one individual's disputes with the superintendent of insurance's office. It is also a story of how a multinational corporation can contravene statute law, ignore the parameters of a just society and crush an innocent victim. It is a direct rebuttal of those who have been before you to say the cost of service to the public is two or three times higher than public insurance plans because this industry serves the consumer. It is a woeful testament for those disabled from the Advocacy Resource Centre for the Handicapped who made their pleas to you about discrimination. When you asked the insurers about this, they replied, "There is no problem so far as we are concerned." I guess not.

As an investigator, I have examined many self-interest groups that have preceded me and have listened with interest to the questions of this committee. There are many questions left unanswered and there appears to be a double standard in the rationale of these insurance representatives. After all, Bill 2 is about money and money can be counted.

You have heard statements from the insurance industry that the Human Rights Code must be ignored by them. The reason for such exemption is that this is actuarially sound. Yet when questioned, the superintendent of insurance states the only information he can provide is financial statements for 1984. I hear you are going to get better information on that as of late. That year may be significant, if one reads George Orwell, but it is of little help when considering events that this committee is concerned about.

To my knowledge, there is not one shred of evidence before this committee as to the total money received or paid out by automobile insurers over the past three years. I submit it would be impossible for this committee to make justified recommendations without this information. Why? Because it would not be actuarially sound.

I am not a lawyer, but it seems to me the provisions for these financial records to be examined are already part of the Insurance Act. As well, each corporation is required by federal and provincial laws to keep these records on a yearly basis. My point is that these records can be obtained and I would urge this committee to do so by whatever means are at your disposal.

I see Mr. Runciman has left. He may think this is an invasion of privacy, because I have heard this issue raised before with some of the

insurers. One gentleman stated that he thought it was terrible that somebody could walk into his office and examine his records. He further became quite dramatic in stating that he thought it was appalling that somebody might go to his home, in front of his family, and look into his closet. One of the members was quick to point out that nobody had suggested that.

However, this man's point can be completely quashed when one considers he is speaking for an industry that employs on a daily basis countless private investigators to follow accident victims from place to place and use surveillance techniques. They lie to these victims to gain access and entry to their homes, trick them if they can and take pictures of them.

I know this first hand, so does Kathy, so does her mum. One day I came upstairs to see a private investigator sitting and having tea and cookies with Kathy and her mum. I knew him, having dismissed him from my employ two years prior. He was pretty shocked, I will tell you. I will say I had to dismiss him that day too.

In view of the fact that auto insurance is required by law, I do not in the least think it is proper for auto insurers to be made accountable. You are not going to need the emergency task force to get this information.

I am of the opinion that it is pretty dangerous that this committee accept the financial representations of the insurers, especially when I hear submissions like, "We need a 44 per cent rate increase." When they are challenged on their own figures, they appear to be evasive and contradict one another. This behaviour is not consistent with truthfulness. This has happened time and time again as I have watched this committee.

When one looks at the situation as a whole--and this includes the massive propaganda that was evident prior to the provincial election--the credibility of auto insurers becomes very suspect and once again is consistent with a double standard. Under a pretext of "Let us get the facts straight," the truth is the insurers have bombarded the public with misinformation.

I got this brochure--you probably have a copy--from Kathy's grandmother. I had to drive her to cancel her car insurance. I would like to give you examples of what I mean that are contained in there. This leaflet states: "Cheap auto insurance is a myth, like cheap postal service. The costs of repairing cars, paying medical costs and settling lawsuits are the same in any plan."

First, they compare public auto insurance to Canada Post, but time and time again here in this committee, if a comparison is mentioned between Ontario car insurance and public western plans, the insurers state, "You cannot compare apples with oranges." I think a grapefruit even got in there at one time.

Next, medical costs: In Ontario, these costs are borne by the Ontario health insurance plan. True, the insurers pay a small contribution to this plan. Kathy did not have OHIP, but OHIP retroactively gave her this coverage free of charge so that the insurance company would not have to pay her medical costs and they would be covered. Is it fair that all who contribute to OHIP pay for Kathy's injuries? This, coupled with the fact that there is no effective way at present to have medical services linked to auto-insurance-covered accidents, has the people in charge of subrogation and OHIP quite concerned. I had a rather lengthy conversation with the OHIP people in Belleville.

Lawsuits: Obviously, if the insurers made any attempt to settle claims at the outset, lawsuits would be greatly reduced, as is the case with Larry Symmers, as reported in the Toronto Star, Tuesday, June 9. The headline here gets all the attention, "\$750,000 Award for Ex-mechanic Disabled in Crash." What does Mr. Symmers say? "I offered to settle for \$50,000 but they screwed me around."

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Here is another example from the brochure. The auto insurers state, under the guise of the truth: "The truth is, auto insurance remains unprofitable for almost all insurers. Even with investment income included, Ontario car insurers lost 1.6 cents for every dollar of income in 1986, a total of \$330 million." I have heard the previous Minister of Consumer and Corporate Affairs state this many times in the House of Commons.

Now we are getting somewhere. If 1.6 cents on the dollar equals \$330 million, one can arrive at the full dollar value of income. It would be 62.5 times \$330 million, or \$20.625 billion. Yet these same insurers have stated to this committee that the total income is between \$3 billion and \$4 billion. It is important that this committee get the real facts, not numbers provided by the insurers that do not make sense.

To me, perhaps the most misleading statement of all is in the smart no-fault pamphlet produced by the Insurance Bureau of Canada. Under the heading, "How much do I get if I am hurt in an accident?" the answer is, "You can receive a tax-free weekly income which will approximate your after-tax earnings up to a maximum of \$600."

They state this is what they propose, but the travesty is there is absolutely nothing stopping them from doing that right now or all along for the past few years. As a matter of fact, section 224 of the Insurance Act sets out the ground rules for doing this. They can make such payments without regard to liability or any tort action going on. They could certainly save most of the prejudgement interest which they complain so loudly about. It is truly confusing to me what to believe.

While I am on this subject, who paid for all this misinformation? One could not turn on the radio or TV, look at a newspaper without seeing four-page ads or even go grocery shopping without seeing the evidence of this massive misinformation. Keep in mind, they were not selling car insurance, they were doing these things to keep the business.

The paradox of this situation was most graphically exhibited during last year's Super Bowl when the Insurance Bureau of Canada's commercial came on, the one where they smash up cars and then state words to the effect that "the cost of insurance is directly proportionate to the cost of insuring you." I do not know about you, but I could not help but think that if they would stop smashing up those cars and stop putting out \$1 million a crack for air time on the Super Bowl, maybe insurance rates could come down. It seems a strange activity for a business that is losing money. Who paid for it? The consumers, of course, the people who buy auto insurance.

While I am on the subject, who is footing the bill for that architectural edifice at Highway 400 and Highway 7? It makes the Taj Mahal look like a birdwalk. Or how about that new, gold glass skyscraper opposite Scarborough Town Centre, or the block at Jarvis and Bloor? You can see these just coming down from Newmarket. None was there three years ago but these

buildings are becoming commonplace. There is something dreadfully wrong. Where can the public turn? To our legislators? I hope so.

While all this has been going on, what has been happening at Queen's Park? The Slater commission was completed and what happened after this costly study? Not a thing. There was an emergency debate. What happened after that? Not a thing.

Rick Hansen came to Queen's Park. He entered that most sacred chamber to a standing ovation. I bet a lot of the members here were there. A bill was immediately introduced with unanimous consent, first, second and third reading, and the county of Hansen was proclaimed. That was a very nice tribute to a living legend, but Rick had scarcely wheeled out of the House when Mr. Kwinter got back up on his feet and told us there would be another study, the Justice Coulter Osborne study, to report in November 1987. I am sure this did not make the people at ARCH very happy. Those who were maimed by car accidents must have been thrilled that they could live in poverty for another year.

There was more public outcry. The government of the day said the answer was to freeze rates, with 10 per cent off for young drivers and taxi drivers. Of course, we learned in this committee that the Facility Association had just raised its rates by 40 per cent. There were more promises of a thorough review. Then came the election and many new faces were seen in the House. What happened? I think Bill 2 and this very committee for the public, but the insurers got another rate hike. Pardon my sarcasm, but we have been pretty frustrated over the past few years.

Why have we come here to tell you all these things? Nine days ago I could not sleep over some of these events. At 3 a.m., I watched the movie, Mr. Smith Goes to Washington. For those of you who have not seen it, it is a story of how big business puts the buck ahead of people. James Stewart learns big business owns the newspapers and controls the politicians. He ends up changing that situation, and it kind of pumped me up.

Maybe I am here for my sister, who could not get insurance because her husband had an impaired conviction. He does not even have his licence. Maybe I am here for my brother, who went blind last year. Years ago, he bought a disability policy. When he attempted to submit his claim, the insurance company wrote back to say his policy was void because he had not made his claim within 30 days. I remember, on the telephone, he laughed about it. He said, "I could not read my policy."

Maybe I am here for Leo, who used to ride my cab. Leo settled years ago, and it was an accident claim. He did not foresee that he would develop complications that would involve amputation a bit at a time. Leo lives in a garage. He gets \$70 a week from an insurance company.

The saddest case I have ever come across personally is Jerry Hansen. Jerry and his wife were both disabled in a car accident. The insurance company paid for a specially handicapped van for them to get around. They did not pay for a communication system. Last winter, Jerry had another accident on an isolated road and seven hours later his wife froze to death in his arms.

Maybe I am here for Kathy's mom who gave me a Dag Hammarskjöld quote, "Never, for the sake of peace and quiet, deny your own experience or conviction." Mostly I am here for Kathy, who was kicked by an insurance company when she was down and a government bureaucracy stood and watched.

Whatever the reason, we are not beaten on this thing yet. I have seen

this sort of thing happen before; 20 years ago, 70,000 of the most unusual specimens of mankind gathered together in Griffith Park, Los Angeles, with a common purpose. They did not want the war in Vietnam. Grace Slick, lead singer for the Jefferson Airplane was on stage and she told us all: "We can stop it. There are more of us than there are of them." I think that goes for this insurance thing. We are just not organized, and if we have to, we will.

It took some time, but the baby boomers there have left their children a legacy of peace. What legacy will their children have? Are we going to leave them a world where big business squashes people and newspaper ads that are bought and paid for by the public tell us what to think? The new group, Twisted Sister, tells my kids not to take it any more. The seeds for all this to happen have already been planted. I think it is time to dig up the garden. If you find a can of worms, so be it. Even a can of worms might catch some fish that could feed a hungry person.

Mr. Tory has stated, "What if there were 1,000 cabs all parked at Queen's Park?" I say, "What if there were 1,000 Terry Foxes sitting in them?"

In closing, I would like to say the insurance industry has stated the problem of high insurance premiums is from without. They blame the courts, the tort system, the judges and the public that sue. Mr. Swart has produced some pretty shocking facts that suggest the problem is within the insurance companies, and I tend to agree with him.

Some factors are a combination from without and within. Certainly, risk management is a worthwhile consideration that addresses some problems, but how about research and development? I have not heard one word about research and development. It has never been asked. "My world is as different from my grandfather's as his was from Julius Caesar's," said Alvin Toffler about technology. How far have we come with the automobile? We have refined it a little: five-mile-an-hour bumpers, collapsible steering wheels, seatbelts, helmets for motorcyclists. This is just pathetic considering the technology that is already available, and motor vehicles are the number one killer in the world today, not the number one cause of death but the number one killer.

I have seen a racing car doing 200 miles per hour hit other cars, a cement abutment and then burst into flame, and the driver got out and walked away. I certainly know we can mould steel to save lives.

The first step is to put people before the buck and corporate profits, and this committee can do that. You can listen to what our friends to the south say we should do. You could look to the east or you could look to the west for answers, but if you keep doing that, you will wind up shaking your heads. I hope you look to the sky and dare to innovate.

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Mr. Chairman: Mr. Downing, I notice on page 8 certain recommendations. We are pretty close to the time allotted, and we apologize for that, but unfortunately there have been large numbers of people coming before us. It is not going to leave very much time, if any, for questions from members of the committee. If you want to read it, go ahead, but that will limit the time even more.

Mr. Downing: I think it is the most important part of my brief.

Mr. Chairman: All right. Fine.

Mr. Downing: I will get specifically to Bill 2. It addresses some of the concerns of the public that the insurers be made accountable. Section 26 is of paramount importance because without enforcement or punishment, the previous sections mean nothing, as is true with any law. I think the people who legislated the Insurance Act thought the same way. Their rationale must have been that if you are going require the public to buy something by law, then you had better keep tabs on the people who are selling it.

To make a long story short, I have done about a year and a half of investigation on this subject and why there is an insurance crisis. I have found the senior officials at the Ministry of Financial Institutions have never laid a charge under the Insurance Act, nor do they know how to go about it. As at July 2, 1987, the senior government official, and the only government official with the power to enforce the Insurance Act--and that is the Superintendent of Insurance--at that date, he did not even know the procedure required to have charges laid or how to enforce the Insurance Act. There is no one the public can turn to for the purposes of having the Insurance Act enforced. Because there has been no enforcement of the Insurance Act, the insurers have acted improperly and contravened the law, at times acting oblivious to the laws.

We submit that as long as this situation persists, there will be chaos between the public and the insurers. The insurers will do as they please and the public will continue to complain.

You can write Bill C-2 to C-100 and if the law not enforced, it is not going to do anybody any good. We stand by what we say. We invite you to examine the documents that have been provided to you as this will provide insight into the insurance situation as well as into public concerns. We wish you luck in solving this dilemma and hold ourselves available. If you want us, we will come back; after you read that brief, we will answer any question, because we have been through it.

Mr. Chairman: Thank you, Mr. Downing. I am going to suggest to members of the committee, and I hope we will have consensus on it, that each of the parties be limited to one question. The only reason I say that is, as you know, we have two groups here from Manitoba and if we do not finish today, unless each of us is prepared to take them home and put them up, we have a problem.

Mr. Cureatz has indicated the first question for his party and if the others wish to ask questions, that is not an invitation, but let me know.

Mr. Cureatz: I appreciate the presentation. Quite often, I know, and I pride myself on my constituency work, that when you look in terms of the kinds of encounters that you have had, it gets lost in the shuffle and it reinforces the role that we as politicians should play on looking after the individual as best we can. By the sounds of it, if Mel Swart has been doing that, well, then, of course, we will have to congratulate him on doing all that he can to try to alleviate some of the bad feelings you have had in terms of the insurance companies.

Mr. Downing: I met Mr. Swart today and talked to him briefly on the telephone.

Mr. Cureatz: Oh, is that right. OK. Just briefly, we could have a lot of questions, but I read in the front of your brief to try to get into some of the documentation you have provided for us. I see quite an extensive

letter from a doctor, which I briefly read through, and then a further undertaking with regard to Kathy Wilson pertaining to the continuation of, I guess, a lawsuit to her solicitors. Notwithstanding some of the frustrations that you or she had, you pursued legal avenues. I suppose the nutshell question is: Are they still in pursuit, and have you found them as dissatisfying, generally, as dealing with the insurance companies?

Mr. Downing: I think it is important you realize that there are two things going on. I guess there are lawyers in the room. There is a tort action and a civil suit, if you may. What we are here about and what that whole file is about is the law. There are no-fault benefits and that is the law. Section 233, schedule C payments. By the way, I might say it is the only law I have ever seen prefaced by the word "mandatory." The insurance companies are supposed to have to pay. That is what we are about. There is another action going on, but it has not been resolved. We did not really speak to it, although obviously some of the information is going to be used--

Mr. Cureatz: That clears up some of my inquiries.

Mr. Swart: I am not going to ask a question because I am very familiar with this case. I just want to say to the members of this committee in a nonpolitical sense that I hope they will read these documents over. It is pretty classic of two things, an abuse by an insurance company and the lack of policing of the laws which we now have. I just think it is important that every member here familiarize himself with this.

Mr. Downing: If I could add to that, there is no policing. There is nobody to enforce the Insurance Act. We have been told this. I will meet with anybody, like later on. There is nobody doing it. That is why they do not care what they do, whether it is according to the law or not because you have let wolves here run among the sheep and now they have just ravaged them. If you start with letting them off on the Human Rights Code, this is the sort of thing that happens. There is nobody enforcing this act.

Mr. J. B. Nixon: Mr. Downing, I just want to make the point that the government's intention is not to abandon our intention of eliminating age, sex or marital status as underwriting criteria. Moreover, I found your brief and presentation very moving. This does not explain anything to you, nor justify the inaction on anyone's part or the action that you find difficult to accept, but we are introducing what we have been calling in the ministry a third bill dealing with insurance, which will greatly expand the investigatory and enforcement powers of the office of the superintendent of insurance. One of the problems we have had is that bill was written, as I understand it, mostly in 1911 and 1934, dealing with very out-of-date circumstances.

In any event, I would be happy to sit down and discuss your brief with you and the superintendent. I have not seen it before--

Mr. Downing: Thank you very much. I do not want to denigrate this, that I am on the case of the superintendent of insurance. He is in the wrong place at the wrong time. I have heard you say before that this department has been grossly underfunded. I think I have heard that in this committee.

Mr. J. B. Nixon: This is true.

Mr. Downing: I will take up your offer.

Mr. Chairman: Mr. Nixon is the parliamentary assistant to the

minister responsible. If he has indicated he will do that, I think that is responding to Mr. Swart's very sensitive--and I appreciate it is a nonpolitical--statement, but that will be done--

Mr. Downing: I would like to thank Kathy Wilson because she is really--I mean you are not going to walk into her house or that--you are going to get right into bed with some of that information that is there.

Mr. Chairman: OK.

Mr. Downing: She has allowed us to do this.

Mr. Chairman: Thank you very much, Mr. Downing. We appreciate you coming forward and presenting that information. We will certainly take it into consideration and Mr. Nixon will probably either talk to you now or tell you how you can get in touch with him so that you can discuss it.

Mr. Downing: Thanks very much.

Mr. Chairman: The next delegation is Wellington Insurance. Murray Wallace, John Andrachuk, Francois Bertrand. I hope I got those all right. Perhaps you would sit down and identify yourselves for the purposes of Hansard. I understand we have a brief, which you have before you in two documents, exhibit 60. They are together. I took mine apart. You have heard the way we proceed. We have your group slated for half an hour. I notice that you have two rather large documents here. It is your choice. If you wish to read the entire brief, you may find that we will have problems with questions, but I will leave it up to you as to how you proceed.

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WELLINGTON INSURANCE COMPANY

Mr. Wallace: Thank you, Mr. Chairman. I think we will deal with the one brief entitled Submission to the Standing Committee on the bill. The other one is a background document, which is another proposal we made earlier to the Osborne commission.

I am Murray Wallace, the president of the company for the last three weeks. Sitting on my left is John Andrachuk, chief financial officer of the company, and on my right is Francois Bertrand, who is vice-president and chief actuary of the Wellington.

We welcome this opportunity to address the committee in respect of Bill 2. We know it is a very difficult job you have to deal with the assessment and the related measures that will follow it, such as possible reforms to the compensation system. Those issues cover an extraordinarily wide range of public policy, administrative and economic questions.

In our view, there are a number of key questions that must be addressed in respect of the bill. Does it address the public interest and public policy questions with respect to the provision of automobile insurance? Is it the best choice among what is available? Will it enhance consumers' interests over time, or will it make matters worse? Does it set Ontario apart as a world-class innovator? Does it address the two key issues of disclosure and stability in the most effective way? Does it act to reduce costs throughout the entire system--in distribution, operations, regulation and the compensation system? Does it serve you by solving, for an extended and

indefinite time, the recurrent public concern with the cost of automobile insurance, or will Bill 2 unnecessarily exacerbate and magnify the problem it purports to solve?

This afternoon, I will take the opportunity to introduce an alternative and comprehensive system that addresses these questions and public policy imperatives. But before we do that, I would like to do two things--introduce our company to you and then review a number of concerns we have with respect to Bill 2.

Let me introduce ourselves. Wellington Insurance Co. is 138 years old. It is a wholly Canadian-owned company, operating only in Canada. Our mission, among other things, is to serve individual consumers for their personal insurance needs, including automobile and home owners. We employ more than 650 people, over 400 of whom are employed in Ontario, and almost half of our business is in serving the Ontario consumer. We serve over 100,000 Ontarians for automobile insurance and we are one of the major insurers in the market, the 14th largest firm and the fourth largest Canadian firm.

Our corporate history illustrates an important aspect of the industry in Canada over the past 10 years. As you know, the industry is foreign dominated, although this foreign domination has been declining recently and Wellington is one of the reasons.

In 1985, our ownership was repatriated from the Fireman's Fund back to Canada after a 20-year absence. Our new parent company, Lonvest Corp., is a public company with over 5,000 shareholders. It is important to note as well that nearly one quarter of the employees of Wellington have a significant ownership in that company. It is in part at least an employee-owned company.

The personal auto business is crucially important to Wellington. That business alone in Ontario is over one third of our total business volume. Our performance is highly dependent on the performance of the Ontario auto business. However, on page 4 of the brief you will see that the results of our Ontario business have been unsatisfactory. There are a number of key economic considerations that relate to that.

The economic results of our Ontario automobile line have been, as outlined in the table, reasonably unhappy and provided a cumulative loss over the last eight years of \$5.3 million after investment income. We have not made an underwriting profit in the last seven years and there has not been a profit after investment income since 1984.

There are two important trends that underlie this history. First of all, the average bodily injury claim has been increasing over this period by almost 11 per cent per year. In addition, the frequency or number of claims has increased dramatically over the past 18 months. We now find that 1.1 per cent of our customers have an accident resulting in a bodily injury claim each year, whereas in 1985 the frequency was 0.9 per cent.

These small percentages may not sound very dramatic, but each and every one of these claims costs on average \$20,045 today. In 1980, the cost was \$8,529.

So what is happening is a deadly combination--the cost of accidents is increasing at over twice the rate of general inflation, and the number of these claims has been increasing by over 20 per cent in the past two years.

I am not really here to burden you with Wellington's problem. But I do

want to bring to your attention the fact that the full costs of the insurance system are not currently being met by the consumer. Wellington's experience illustrates another important characteristic of the business. It is not very predictable.

I would now like to turn to our reflections on Bill 2. Any regime for auto insurance regulation should rest on a firm foundation of well thought-out public policy objectives. I would like to review our understanding of these objectives and then relate Bill 2 to them.

It is our view that an auto insurance system, as a whole, should satisfy at least seven fundamental criteria:

1. Universal minimum liability insurance that guarantees and delivers fair and adequate compensation to innocent victims.
2. The cost of the auto insurance system should be fully internalized so that no subsidization is required from other sources.
3. The distribution of costs by means of prices charged should be equitable and reflect cost in accordance with basic principles of insurance risk pooling.
4. The insurance system has an important role to play in enhancing public safety.
5. The system should be adaptable and should ensure its capability to meet changing societal and customer needs by innovation and other means.
6. The consumer should be provided with as great a choice of products and suppliers as a competitive system can provide.
7. The system cost and the ultimate cost to the consumers should be contained and minimized consistent with the above objectives.

Mr. Nixon has stated that the purposes of Bill 2 are to ensure protection of the consumer, to bring stability to the market and to bring equity to the auto insurance market. These purposes are consistent with the general purposes of an effective auto insurance system that I just related, but the question we would like to raise with you is whether Bill 2, as proposed, delivers on these objectives. We believe it does not.

Even more importantly, Bill 2 will work against other policy purposes and ultimately make today's problem worse.

Let us look more closely at the three objectives that Bill 2 is supposed to serve. First, protection of the consumer. In our view, Bill 2 does nothing to improve consumer protection. Public review of insurance prices in a sector of the industry, which is currently losing money, could not be expected realistically to result in lower prices. We see no other measures in the bill that enhance consumer protection over those already in place today.

With respect to stability in the market, Bill 2 will not, by itself, bring stability to the market. To have price stability, two things are necessary. The underlying costs must be stable and new costs must be recognized in the price as soon as you know about them on a predictive basis.

A few minutes ago, I related our frequency experience over the past

several years. Frequency is neither controllable nor precisely predictable. As a result, the underlying cost of auto insurance is volatile by its very nature. In addition to this, the underlying inflation in cost per claim must be priced predictively rather than reactively if you are going to have stable rates. Rate stability of course does not mean unchanging and fixed prices.

The Ontario Automobile Insurance Board can only achieve rate stability over time at a cost to someone else. This effectively means subsidization external to the system from the public purse, insurers, their shareholders or from other insurance consumers.

Because of its structure as specified in Bill 2, the Ontario Automobile Insurance Board will not be able to respond in a timely enough fashion to recognize cost changes in order to ensure stability in the absence of major price shocks.

The board introduces a further bureaucratic layer between the insurance industry and its consumers. As a result, the response time needed to recognize changes and alter prices in an orderly way will increase significantly.

With respect to equity, the third purpose is to bring equity to the market. We presume this purpose is intended to be served by the establishment of the board, the creation of a uniform and mandatory classification system and the setting of uniform prices. We believe this policy purpose will not be achieved by Bill 2.

From a technical perspective, the determination of individual expected loss cost depends on many factors. Many of these factors are being excluded from the uniform classification plan. Many of these factors have not yet been identified. A system, which does not allow for these enhancements to be passed on to consumers in lower risk categories, is inherently inequitable.

In our view, the kind of research and innovation necessary to develop these sophisticated approaches is best done by individual companies trying to provide the best service at lowest cost to these consumers.

The system, as proposed, for example, will likely subsidize Toronto drivers by penalizing rural and northern Ontarians. The underage male driver will be subsidized by all other drivers.

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In summary, the system proposed will not achieve its stated policy purpose: The classification system deprives the consumer of choice--one of the advantages of the current system is that different insurers look at different consumers differently--each insurer has a preference for you as a consumer, so you have choices. Having choice is a good in itself. Surely public policy should encourage and not deny consumer choice.

The introduction of a new classification and pricing system changes many variables at the same time and will result in a multi-year distortion in pricing--not only at the insurers' level but, more importantly, for individual consumers. The Mercer study on redistribution effects addresses some of these dislocations and you have heard other intervenors speak to them as well. This fact alone ensures destabilization instead of stabilization that will likely continue for years to come.

Bill 2 presumes that the disclosure problem will be solved by public

hearings and by the uniform classification and pricing system. But this process does not explain the differences between prices charged to individual consumers. The system is necessarily so complex that few consumers will want to understand it.

If the consumer has the choice of product and of insurer, then he or she is as capable of acting in his or her best interest in the purchase of insurance as with any other product. Standardization and elimination of choice are not necessary to attain disclosure and understanding. But disclosure is of crucial importance.

In short, for these and other reasons, our opinion is that the bill is not capable of achieving its stated purposes.

Our alternative: As legislators, you have the opportunity today to create the finest system of automobile insurance in the world--effectively to be in the vanguard and to meet the needs of Ontarians. In the Ontario tradition, you can create a world-class system by simpler means than Bill 2. There is an alternative policy that can achieve these purposes, an approach that can control the costs of the system, be fair and equitable to consumers and preserve market discipline and the consumer value of choice. I would like to outline how we think this can be done.

The first major component is to reorder the basis of insurance coverage. There are 5.8 million drivers in Ontario and 4.2 million cars. Many of the concerns of the public about the system over the past two years have been about inequities resulting from secondary drivers, particularly underage drivers in a family setting. A system based on drivers rather than cars would improve administrative control in ensuring universal holding of liability insurance by all drivers and would eliminate the inequities of secondary drivers and multi-car per driver situations, which exist in the current car base system.

The second major component. The containment of loss costs by reforms to the compensation system. The compensation system contains by far the greatest portion of insurance system costs. In Wellington's case, the loss costs for 1987 accidents took 85 per cent of premiums. Without reforms of the compensation system, cost containment is not possible and, as a result, neither is stability.

Wellington has previously made a comprehensive proposal in respect of both driver insurance and the compensation system to the Osborne inquiry. A copy of this proposal has been forwarded to yourselves and was included today in the submission. The key elements of our approach to compensation are the establishment of an administrative system operating between insurers that would establish fault and initiate a stream of periodic payments to victims shortly after an accident; The establishment of a consumer-oriented and accessible dispute resolution mechanism similar to an arbitration procedure; the maintenance of the tort system, with the intention that the court system will serve as a relief valve rather than the only means of redress; the elimination of lump sum settlements and replacement with a periodically reviewed stream of payments; setting of guidelines for settlements to the courts to stabilize court awards.

The basic principle underlying the above is the achievement of full and adequate compensation for innocent victims. In addition, at-fault victims should have protection available on a voluntary basis through the offering of an excellent accident benefit product, a system which might in total be referred to as voluntary no-fault.

The third major building block in our proposal is to create a fully competitive insurance market. Today's system competes on a limited basis, essentially on the basis of price and distribution positioning. The product is essentially uniform--no innovation or differentiation is permitted by law. Mandatory statistical reporting causes most companies to look at the market in essentially the same way. As a result, the industry tends to follow similar distribution, pricing and operational practices.

You can change this system to induce full range competition equivalent to that found in most other financial institutions. Competition in the other financial institutions has encouraged innovation, diversity, consumer choice and customer focusing and, by the way, has lowered costs substantially. The same benefit to consumers can be achieved in the property and casualty industry by simply removing coercive devices that are in place today supporting or enforcing uniformity and constraining innovation. These devices include the prohibition on product innovation and mandatory uniform statistical rating. Removing these constraining devices will force insurers to focus more closely on the full range of consumer needs and to spend their energies satisfying their customers instead of regulators.

At the same time, we suggest as an interim measure that government should require the industry to provide a consumer information service, how to shop for insurance, how to decide on your best buy, where to go to get it, questions to ask on underwriting rules and so on, and to require companies to describe their underwriting and rating criteria and renewal availability policies by disclosing this information as an essential part of the insurance contract.

In order to enhance stability, Ontario should encourage the responsible recognition of product costs and pricing on a predictive basis. This can be aided by active enforcement of solvency regulation for Ontario companies and the encouragement of similar regulatory disciplines for federal companies.

We believe that these three steps would create a lasting reform of the entire regime of auto insurance in Ontario. They would deal comprehensively and fairly with the issues of protection, equity and stability. We urge the committee not to allow Bill 2 to become the end of the process of reform. It is too important to all of us here in Ontario.

Thank you for allowing us to be here today. We will be pleased to more fully explain our submission or answer any questions.

Mr. Chairman: Thank you. Mr. Sola, before you start your questioning, just to make certain that we play fair ball with all witnesses, there are about 10 minutes left, so we will allocate them equally among the parties.

Mr. Sola: On page 10, you asked for a classification system which would give the consumer choices. Then, on page 13, you state that the product is uniform. On the one hand, you are complaining that Bill 2 tries to provide what, on the other hand, you are complaining about in the present system on page 13. Does your statement on page 10 not contradict the one on page 13?

Mr. Wallace: I think there is an inherent difference between the two comments. I will have John Andrachuk comment on it.

Mr. Andrachuk: On page 10 we are referring to what Bill 2 does. What Bill 2 proposes is a uniform, mandatory classification system that would apply

not only to all consumers but also to all companies, so that no matter which company supplied you with insurance, under the proposed Bill 2 classification system, you would be defined exactly the same way.

In addition, Bill 2 does propose that the price you would be charged would be the same within a small range. What we were referring to on page 10 is the fact that the classification system under Bill 2 would totally eliminate choice for the consumer. He would not have a choice in the product he bought. There would be no variety in the product, there would be no variety in the classification system and he would have no outlets. He could not, for example, find a company that wanted to have him as a particular kind of customer and thereby charge a lower price or give him a better product.

What we are proposing instead is the exact opposite of that. We are saying there should be not be industry-wide classification systems that are generally accepted and generally used by the industry--and that is the case today, essentially--and, most important, there should not be a universally imposed, single classification system. Rather, each company should be forced by the way the rules of the game are set up to go out and find out which customers it wants, what kinds of products it should deliver to those customers, what kind of prices it would choose to charge and, in addition, help the customers shop to get the best deal for themselves.

What would happen, we think, is that customers would begin to find the deal that best suited them, the company that best suited them, the agent that best suited them, the product that best suited them, conforming to minimum standards and, hopefully, the price that would be the best for them. What the proposed bill does is totally deny the consumer choice. It totally denies the capacity of the consumer to shop around and go from one company to another, get a different kind of product delivered in a different way at a different price.

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Mr. Sola: May I have a question?

Mr. Chairman: Your question and answer just shot your time, Mr. Sola, three minutes.

Mr. Runciman: Mr. Wallace, you said you have only been with the firm for three weeks. What were you doing prior to that?

Mr. Wallace: I was with Royal Trust.

Mr. Runciman: Have you ever worked in a public insurance environment, auto insurance environment?

Mr. Wallace: Yes, I had the great pleasure of running Saskatchewan Government Insurance for three years.

Mr. Runciman: Really. Perhaps we will get an opportunity to talk about that. We only have three minutes. Perhaps we can have consent to extend it a few minutes, based on that.

You talked about the response time in the excellent submission you made, about your concerns about the response time under Bill 2. This is page 8. That is a concern that I have expressed during this process. The superintendent is suggesting that he is going to require quarterly statistics and be able to

keep on top of changes in the economy and changes in the system, to be able to respond in an adequate fashion. I gather you just do not buy that.

Mr. Wallace: I think we dispute it in terms of the kind of predictive pricing that has to be done.

There have been tremendous strides made in the industry in the last five or six years on the actuarial side of trying to be able to predict loss cost, and François Bertrand could speak to that. I know we have a short period of time. But, really, unless we misunderstand the bill, it was essentially the 120-day and the 60-day provisions in there that looked to us out of touch with reality, in terms of the marketplace.

If you look at these loss costs that we have, and so on, the windows are very small and they slam shut in a hurry. We think that a system that is so unresponsive as to make you wait 120 days is unreal. John Andrachuk may want to elaborate on that.

Mr. Runciman: I would appreciate the elaboration, but I have a couple more questions, and we are going to have to abbreviate your answers as well. I am sorry about that.

I wanted to emphasize that you touched on something that no one else has in terms of the unisex classification approach. We are not only going to be subsidizing the single males under 25, but also the rest of us out in the hinterlands are going to be subsidizing the Metropolitan Toronto drivers. That is something that has not been emphasized to the extent it should be. I appreciate your bringing it to the committee's attention.

In regard to the suggestion you made to deal with the situation, is there any jurisdiction in North America using something comparable?

Mr. Wallace: It is a new approach, except it is a pot-pourri of some things that are tried and tested and that match against advances that have been made in the predictive ability of actuaries in this area in the past few years. John, you may want to comment on that, as one of the primary authors.

Mr. Andrachuk: We think not in its totality. That is why we suggest that you have the opportunity to put Ontario literally as the world leader in the provision of an automobile insurance system, and by simple means. There is no revolution required here, as you can see. It is actually a fairly straightforward set of changes.

Mr. Runciman: This government likes to describe itself as world class. I hope it is listening.

Perhaps we should take a few minutes, Mr. Wallace, since you have this experience in a public position as well as the private sector. Perhaps you could give us, in a few minutes, your observations of the public sector operation in Saskatchewan. Do you have any problem with that?

Mr. Wallace: The point is I would like to stay away from questions about rate comparison and cost efficiency of the systems, and so on. I can tell you, having looked at life from both sides now, it is pure sophistry. You can make any case you want.

It is a question of, what are your public policy intentions and how can you best satisfy them? At the time when the Saskatchewan Government Insurance

was set up, there were more public policy intentions than simply the fact that you could not get insurance. It had to do with the development of the province, and so on. It worked very well, and continues to work very well, but the thing that is clear is that there are some inherent inefficiencies in any monopoly situation. There are even more inherent inefficiencies in bigness in general. Bigness is the enemy of efficiency. That has been demonstrated time and again.

If you take a look at the situation in British Columbia--I know my good friend Tommy Holmes was here this morning telling you about how marvellous it is, but every auto insurance situation provincially is completely different in terms of the things that drive the loss-cost database. That is why rate comparisons are so futile and that is why they can be used to advantage by us in the industry or by people who are proponents of public auto insurance.

I think you really have to create your own system, having regard for your own public policy objectives, and there is neither a better way nor a worse way. We think there are significant advantages to letting the discipline of the market weed out producers who are not efficient. That is only observation.

Mr. Chairman: Thank you for that very succinct answer.

Mr. Swart: I want to turn to page 14 immediately. I want to confirm that on your percentage of revenue, you actually use 37.7 cents out of the total figure there, which of course adds up to more than 100 per cent, as your expenses in operating the system.

Mr. Wallace: What page?

Mr. Chairman: Page 14 of the backup brief.

Mr. Wallace: Sorry, Mr. Swart, would you repeat that?

Mr. Swart: Yes, there is 37.7 cents, although it says percentage at the top. That is not the proper term. If you add up there from item 2 down to the final item, well, subtract 82.9 from 120.6 for 37.7. Would that be correct? If you nod your head, the microphone system will not pick that up.

Mr. Andrachuk: Yes.

Mr. Swart: You would agree, of course, that in the operation of any system, the expense it costs to operate it does have a bearing on the rates which have to be charged. There may be some difficulty. If you can operate it at a much lower expense system, then the rates can be lower for the same coverage. That would be a reasonable assumption, right?

Mr. Wallace: Absolutely right.

Mr. Swart: You would agree, I think, that as far as the expense ratio goes in the western plans, they do operate substantially lower than the private system here. If we take the figures of the Insurance Bureau of Canada and the figures provided by the annual reports, it would be a lower operating expense in total. I am talking now of total operating expense.

Mr. Wallace: I would like to say--and I can say this dispassionately, having been fired by two separate governments of different stripes--that there is no valid comparison between the operation of a proposed

public automobile insurance plan in Ontario and what happens in BC, Saskatchewan and Manitoba. In the case of the Saskatchewan one, which I do know well, we had a wide range of discretionary alternatives available to us in representing what were the costs of the system, period.

Mr. Swart: But you have not answered my question. Would you agree--and I presume you have looked at them, having worked there--that expense ratios generally in the operation of the systems in BC, in Saskatchewan and in Manitoba--I am not familiar with Saskatchewan because it is not comparable to Ontario--are substantially lower than even the 36 per cent that Jack Lyndon of the IBC stated here for Ontario?

Mr. Wallace: I think the answer is that there is no fair comparison. If you were to go back and construct a private sector system in BC, Manitoba or Saskatchewan now and say, "How are you doing against that?" I do not know whether that would be more or less expensive. The only qualification I could put on would be with respect to the cost of distribution, because the cost of removing the consumers' choice and forcing them to buy insurance from a monopoly where there is no discretion in the product--obviously, the cost of that distribution system can be lower. So with respect to commissions, yes, it is demonstrable that the cost is lower.

Mr. Swart: The costs are lower in those three. I am not into the argument, at this time at least, about eliminating the competition. I am just saying that the costs of total administration overall are substantially--

Mr. Wallace: Not necessarily administration; just commissions, the cost of distributing the product.

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Mr. Swart: We have other evidence here that will show very differently, that they are much lower.

The only other question I want to ask, and you may not have the figures with you--you say you have lost money on the auto insurance system in general for a number of years. I am not going to argue that point. I just want to ask you what increase you think would be required by your company this year. The board sits in October. I am not holding you to any figure, but what increase do you think would be required so that the return is not inadequate? I think that is the word used in the bill.

Mr. Andrachuk: We have not worked through that to the extent that I would want to give a precise answer, but it would be very significant.

Mr. Swart: In two figures?

Mr. Andrachuk: Yes, definitely.

Mr. Chairman: Thank you very much. We appreciate your coming.

Mr. Dietsch: Is there no time for any other questioners?

Mr. Chairman: No, I am sorry. Because of the time limits and the time taken in the brief, we agreed that there would be--

Mr. Dietsch: I thought we had an opportunity to be even: you know, three and three and five. It is unfortunate.

Mr. Chairman: When we agreed on the arrangement, it was taking into recognition the situation of numbers in the House. I think it is fair that equal time be given to equal members in that regard.

Thank you very much. We appreciate your coming forward.

The next delegation is the Manitoba Public Insurance Corp. I understand that there is no brief, as there is no brief for the 4:30 delegation. Perhaps these gentlemen would like to have a seat and identify themselves for purposes of Hansard. You have a brief opening statement, and then I understand you are going to simply leave yourselves open for questions from the members of the committee. Is that correct?

Mr. Dribnenky: Yes. Basically, we are here to--

Mr. Chairman: Answer questions.

Mr. Dribnenky: --provide any information concerning the operations of MPIC. I have a very brief statement, just to introduce the corporation to the committee.

Mr. Chairman: Perhaps you would introduce the members for Hansard and then give us that opening statement.

MANITOBA PUBLIC INSURANCE CORP.

Mr. Dribnenky: To my left is Jack Zacharias, who is claims manager for the entire province. To my right is Gary Barbour, our Autopac services manager. I am Henry Dribnenky, vice-president of finance and administration.

The Manitoba Public Insurance Corp. was incorporated as a crown corporation under the Manitoba Public Insurance Corporation Act in 1970 and commenced operations on November 1, 1971. The corporation conducts a comprehensive automobile program and general insurance business, which commenced July 1, 1975, in competition with private industry.

For financial accounting purposes, the auto and general insurance divisions are regarded as separate operations. Financial statements of the corporation are presented in accordance with generally accepted accounting principles. The corporation's startup costs amounted to \$4.7 million and are being amortized over a 20-year period.

The corporation is completely self-sustaining, devoid of borrowings and equity funds from any source. As of October 31, 1986, the corporation's assets were in excess of \$405 million, of which \$280 million was in bonds. Another \$66 million was in cash and investments maturing within one year.

The auto insurance division operates with a claims expense ratio to premiums earned of 12 per cent, an administrative expense ratio of four per cent, while commissions and premium tax account for eight per cent of premiums earned. Investment income represents 15 per cent of total earned revenues, which allows the corporation to operate with a 90 per cent to 95 per cent claims ratio and still achieve break-even results. The auto insurance division's mandate is to provide superior coverage and claims service at a reasonable cost with break-even results over the long term.

These remarks were kept very brief in order to allow time for questions from the committee.

Ms. Poole: I am not sure if you are aware of it, but we had a presentation in January from Mr. Garriock who is a past president of the Insurance Brokers' Association of Manitoba. One of the things our committee focused on was the rate increases in Manitoba for this year. Could you confirm the range and the average of rate increases for 1988?

Mr. Barbour: The average rate increase has been at 24 per cent. We have 14 rating groups. It has been capped on the passenger vehicles in the first nine rating groups at \$75. It is the actual loss ratio expense--ratio increase. On that basis, it could go higher than \$75.

Ms. Poole: Do you have any idea what the range percentage would be?

Mr. Barbour: Overall, it is 24 per cent. The overall average is 24 per cent.

Ms. Poole: I think from one of the submissions we heard, it could go as high as 76 per cent. Does that sound accurate?

Mr. Barbour: There could be individual classes that get an increase like that.

Ms. Poole: Would that 24 per cent average include the raise in licence fees?

Mr. Barbour: There was no change in licence fees this time. Licence fees are handled by the motor vehicle branch and there was no change in the licence fees whatsoever. In fact, they dropped for the older vehicles.

Ms. Poole: My understanding is that in Manitoba the penalty for being a bad driver is attached to the licence. Is that penalty increased?

Mr. Barbour: All right. We are talking about two different things. I thought you were talking about registration fees. There has been no change in the registration fees. On a driver's licence, the penalties for those drivers who have two or more accidents has increased.

Ms. Poole: The other information we were given is that the deductible for each motorist had gone up by \$150. Is this accurate?

Mr. Barbour: That is correct. The deductible was at a \$200 level since, I believe, in 1971 and in today's dollars it works out to about \$62.

Ms. Poole: One of the things we have heard on a number of occasions is that one problem with the Autopac insurance plans is that there may be political interference, far more so than in a private industry. We have been told, and this is hearsay so I would like you to confirm it, that there was quite a bit of political interference in Manitoba and that in election years the rates were significantly lower than in nonelection years. Certainly, the massive increases for 1988 would lead us to believe that there may have been some problem that the rates were not increased on a gradual basis every year. I wonder if you could elaborate on that theme.

Mr. Dribnenky: The best way to answer that question is that our rates are approved by cabinet.

Ms. Poole: That has been very helpful.

Mr. Keyes: That really shows it is politically driven.

Ms. Poole: That is right; politically driven, certainly.

You are quite different than in British Columbia. We heard this morning that the way they have theirs set up is that the government is really quite divorced from how the public corporation runs.

Mr. Dribnenky: To a certain extent this is true concerning the day-to-day operations of the corporation, but concerning things such as rate settings, which is the most important aspect of the insurance plan, the rates, although recommended by management of the corporation and approved by our board of directors, also require approval of cabinet.

Ms. Poole: Is there any suggestion that this system would change or has there been any pressure to have it changed?

Mr. Barbour: There has been no pressure to my knowledge to have that changed and there is no indication that it will change.

Mr. Cureatz: I was wondering what class the 75 per cent increase would originate from.

Mr. Barbour: It could be motorcycles. I believe taxis are in some of those areas, and some of the long-haul truckers.

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Mr. Dribnenky: I think what has to be explained is that what we are trying to accomplish is to get the classes that have large loss ratios to pick up more of the bill, so we are going to try experience more than we have in the past, experience rate versus trying to have the rates with across-the-board increases where, in that case, there is subsidization from one class of vehicle to the other.

Mr. Sola: Supplementary, please.

Mr. Chairman: It is awfully difficult. I know you want to do a supplementary but it is awfully difficult to try to be fair in terms of the time to each of the parties. I am going to do my best guesstimate and I hope nobody has a stop watch here who is going to tell me that I am not doing it right.

Mr. Sola: On your recommended rates, has the cabinet ever turned them down?

Mr. Dribnenky: Definitely.

Mr. Dietsch: In reference to some of the funding that goes into the insurance corporation, is there money that goes into the corporation with respect to special gasoline taxes?

Mr. Dribnenky: Back in 1975, the corporation was receiving two cents a gallon in gasoline tax to subsidize--maybe subsidize is the wrong word--to supplement the premiums that were being charged. This two-cents-a-gallon tax that came to the corporation was discontinued in 1978. There was a total of \$18 million during that period of time that was turned over to the corporation.

Mr. Dietsch: That was stopped in 1978 and there is no further subsidization or supplementary at this time.

Mr. Dribnenky: That is correct.

Mr. J. B. Nixon: As to the moneys received by the Department of Transport in the way of penalties or surcharges on drivers' licences, do you account for them in your financial statements as general premium revenue?

Mr. Dribnenky: There are two things we get from the drivers' licences and the insurance premium. First is an accident surcharge. In the event a motor vehicle is involved or an individual is involved in more than one accident and is 50 per cent or more responsible for the accident, there is an accident surcharge. In addition to that, there is a surcharge if you have more than six demerit points. It is going down to four. That revenue does come to the corporation.

Mr. J. B. Nixon: How does it come to the corporation.

Mr. Dribnenky: It is collected through the agency for us or directed through the mail and what have you. Those funds are transferred to the corporation.

Mr. J. B. Nixon: Where does the issuance fee go?

Mr. Dribnenky: The issuance fee goes to the Minister of Finance.

Mr. J. B. Nixon: Who physically collects this money?

Mr. Dribnenky: The responsibility for the collection of these moneys is with the division of driver licensing.

Mr. J. B. Nixon: So it is not with you.

Mr. Dribnenky: It is not with us. And Through their agency for us as well. The Manitoba Public Insurance Corp. has the responsibility for the collection of motor vehicle registration and insurance.

Mr. J. B. Nixon: But the salaries of those people doing that collecting at that one-stop shopping place are paid by whom?

Mr. Dribnenky: The salaries are paid by the government, whereas on the motor vehicle side, the salaries are paid by MPIC.

Mr. J. B. Nixon: How do you separate the two?

Mr. Dribnenky: That is a good question. We have had many share-cost agreements over the years with the division of vehicle licensing. It goes back to 1973 when the corporation assumed the responsibility for the motor vehicle system, whereas the division of vehicle licensing assumed the responsibility for driver licensing. Ever since then, we have had share-cost agreements, sharing costs. Presently, the share-cost agreement is that they assume all the costs concerning the driver licensing system and we assume all the costs of the motor vehicle licensing.

Mr. J. B. Nixon: Is that disclosed in your financial statements by way of note?

Mr. Dribnenky: Yes, it is.

Mr. J. B. Nixon: One final question: Why did your predecessor resign?

Mr. Dribnenky: He did not resign.

Mr. J. B. Nixon: What happened?

Mr. Dribnenky: His appointment was revoked.

Mr. J. B. Nixon: Why?

Mr. Dribnenky: Not my predecessor; I am sorry. I am the vice-president.

Mr. Chairman: I am not sure that is a fair question.

Mr. Runciman: I guess I would like to pursue the political involvement question a bit more too. I know Mr. Swart, during the course of these proceedings and earlier, has often waived your annual report at us all, and not just to keep the flies away.

Interjection.

Mr. Runciman: In any event, some questions have arisen about the credibility of that document, I guess because of the revelations of Mr. Bucklaschuk about the fact that, I think, a \$36-million reinsurance loss was kept out of the annual report. I wonder if you have any observations to make with respect to that incident and how it may impact on the believability, if you will, of the annual report.

Mr. Dribnenky: As far as that issue is concerned, it was very well debated in the House and in public utilities. I really do not know how much I can add to it. As far as the financial statements are concerned, they fairly represent the financial situation of the corporation. They are audited by external auditors. As vice-president of finance of the corporation, I believe they represent the financial picture of the corporation.

Mr. Runciman: What was the rationale for not including that particular amount of money in the report?

Mr. Dribnenky: The rationale was that the figures at that particular time were so soft that the right amount--although, if you are familiar at all with IBNR, meaning incurred but not reported, there is no such thing as an accurate calculation of IBNR--was not really known as far as the extent of the problem we had was concerned.

Mr. Runciman: Were you or the government criticized for that omission by the Provincial Auditor?

Mr. Dribnenky: Yes.

Mr. Chairman: Mr. Swart has asked for a supplementary on your earlier point.

Mr. Swart: Is it not true that the annual report, which I have in front of me, is an annual report for the auto insurance--an annual report for the Manitoba Public Insurance Corp., which handles the general insurance? They are a separate accounting. In fact, that deficit is shown in the section of the annual report, Manitoba Public Insurance Corp. Is that not true?

Mr. Dribnenky: Yes, the operations are separate. It is not part of the auto insurance division.

Mr. Swart: Nice try, but it does not work with the facts.

Mr. Runciman: I do not know why I allow him any supplementaries.

I am just curious. Were you consulted on that as vice-president of finance in terms of the decision to omit that?

Mr. Dribnenky: I prefer not to answer that question.

Mr. Runciman: Another comment that has come out in some of the western media is with respect to Mr. Laufer. You may not want to comment on any comments he has made as well. There was an indication from the media that he was informed by the minister or the government it was looking for a five per cent reduction in 1985 and 1986, a year leading up to an election and a supposed election year. Is that an accurate statement of fact?

Mr. Dribnenky: I could not comment on that observation as well. I was not privileged on that background.

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Mr. Runciman: Another comment: I am not sure of the source, but we talked about investment income today with the chap from British Columbia. Your return on investment has not been as successful as that of BC, I gather, at least over a limited period of time. There was some suggestion that investment income even suffered as a result of government involvement with respect to--I gather the minister, at least the minister of the day, was not only responsible for Autopac but also was the Minister of Housing, that some of your investment dollars were directed to the Manitoba housing and renewal program and that the return on that investment was significantly lower than perhaps you could have received through other investments.

Mr. Dribnenky: I do not think there is any credence to that observation. It is the government's policy that investments principally remain in Manitoba. It is Manitoba Finance that invests on behalf of MPIC.

Mr. Runciman: But you still do not have the flexibility in terms of your investment portfolio that perhaps the BC corporation has.

Mr. Dribnenky: That is correct.

Mr. Runciman: There are some costs I understand you have been saddled with as well. I understand you were assessed for a life insurance study that was initiated by the government, that you were saddled with the cost, approximately \$450,000.

Mr. Dribnenky: That is correct.

Mr. Runciman: I just wonder what comments you may have with respect to an ad campaign that was conducted by the government just prior to the election dealing with seatbelts, helmets and so on. Apparently, no MPIC logo was allowed to be attached to the ads that ran, "This message brought to you by your provincial government," but this in effect cost Autopac about \$750,000.

Mr. Dribnenky: I am not aware that there was no logo allowed on the advertising that was done, but we did participate in a program called the Alive program and the cost was approximately \$750,000. It was related to safety and that is why it was part of MPIC's expense.

Mr. Runciman: Switching fields here, what has your loss experience been for the last couple of years?

Mr. Dribnenky: After a \$9-million profit two years ago, we had an \$18-million loss last year. This year, although these figures are subject to audit, the loss is in excess of \$60 million.

Mr. Runciman: What do you attribute that to? Have you analysed it thoroughly? Is it simply the fact that your rate structure has not been adequate or are there other reasons?

Mr. Dribnenky: I think there is a combination of factors that took place, one of them being that our rate structure did not keep up with what was happening on the claims side. The other factor is that we had a dramatic escalation in claims over the last four years. We had increases in the number of claims three years ago of five per cent. The year after that we had an increase of seven per cent in the number of claims. Following that, we had a 10 per cent increase in claims and last year we had a one per cent increase in claims. To give you an example, our bodily injury claims in dollars went up by something like 30 per cent.

I would say those are the two factors that caused the loss we have this year. That is one of the reasons we are in a catch-up situation on our rates and why you have been hearing about the dramatic rate increases we have in mind for this year.

Mr. Runciman: I guess we could read into your earlier comment that having inadequate rates was essentially for political reasons.

In any event, would you agree with a news story in the Winnipeg Free Press on December 24 which indicates that insurance is going to cost city drivers in Winnipeg more than those in Ottawa and in Calgary? This was a December 24 article. It contradicted statements made by Bill Uruski, who is now the minister responsible. It went into some detail indicating that Calgary--which operates with a rate review system, by the way, not a rate setting system--would give you the best rates in Canada, family rates. Do you have any comment on that story? I am sure you are aware of it.

Mr. Dribnenky: My observation is that it is very difficult to compare rates across Canada.

Mr. Barbour: It is very hard to get the competitors' rates. I have seen rate comparisons come from British Columbia that make them look the best, I have seen them come from Saskatchewan that make them look the best and we can pick and choose, as can any industry, to point out where we are good and where they are bad. You can do that in any rate comparison.

Mr. Keyes: We saw lot of those in the House--

Mr. Barbour: I think it is fair to say, though, that overall, our rates are very competitive, if not lower than those in the rest of the country.

Mr. Runciman: But, as you have suggested, they have been inadequate for the past couple of years.

Mr. Dribnenky: That is correct.

Mr. Chairman: Mr. Cureatz, you still have a little more time if you would like to--

Mr. Cureatz: No, I would like to get on with the next one.

Mr. Hampton: I just wanted to go into some general things first. You indicate that the plan is in a deficit situation this year, your loss situation?

Mr. Dribnenky: Yes.

Mr. Hampton: It is approximately \$60 million you say you have lost?

Mr. Dribnenky: That is correct.

Mr. Hampton: Now, how much of that can you cover with your resources from within? In other words, do you have a reserve system? Do you have reserves?

Mr. Dribnenky: We do have a reserve system. We have eliminated the entire amount of the reserves. We are in a deficit position this year by about \$9 million. That will be recovered through our increase in rates. Our mandate is to break even over the long term. To achieve a break-even right to the dollar is almost impossible because you cannot predict your claims that accurately. You are going to have your ups and downs as far as your retained earnings are concerned.

Mr. Hampton: I see.

Mr. Dribnenky: We had retained earnings of \$72 million two years ago, and it has been eliminated in a very short period of time. So you can see the quite large fluctuation in those retained earnings.

Mr. Swart: Could I just ask you how many years you have had losses and how many years you have had profits in the operation of this system? Would I be correct in saying that there were 11 years of profits and five years of losses?

Mr. Dribnenky: That is about right, I would say. Five years of losses.

Mr. Swart: I wonder if we could just have that again. How many years of losses?

Mr. Dribnenky: We have had five years where we have had losses.

Mr. Swart: And how many of profits?

Mr. Dribnenky: About 12.

Mr. Swart: Twelve years of profits. When you have losses, even though it may exceed the rate reserve that you have, is that money paid out of the public purse or are rates increased to pick it up again?

Mr. Dribnenky: The rates are increased to pick it up.

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Mr. Swart: None of that and any losses have ever been paid out of the public purse, is that right?

Mr. Dribnenky: That is correct.

Mr. Hampton: I wonder if you could just go back and confirm some figures for me. Figures I have show that you had a deficit in 1985-86 of \$18.8 million, about that?

Mr. Dribnenky: Yes.

Mr. Hampton: In 1984-85, a \$9.3-million surplus?

Mr. Dribnenky: Yes.

Mr. Hampton: In 1983-84, a \$18.8-million surplus?

Mr. Dribnenky: Yes.

Mr. Hampton: In 1982-83, a \$9.7-million surplus?

Mr. Dribnenky: Correct.

Mr. Hampton: In 1982-82, a \$15-million surplus?

Mr. Dribnenky: That is correct.

Mr. Hampton: OK. One of the other questions raised the issue of the gasoline tax. The theory I was told was that in the mid-1970s the desire was to find a way to place a premium on those drivers who are on the highway a great deal. It was felt a two-cent-a-gallon or some gasoline tax would reflect that because people who are on the highway a great deal would as well burn a fair amount of gasoline. Is that the theory that was--

Mr. Dribnenky: That was a theory that was used to allocate those funds to MPIC. The more you drive, the bigger the risk you are on the highway, and that was measured through the gasoline tax in lieu of premiums.

Mr. Hampton: I see. So, in effect, it was an attempt to get at a risk assessment or to track some element of risk.

Mr. Dribnenky: That is correct, yes.

Mr. Swart: May I have a supplementary to that? It was a special premium tax put on, not taken out of general revenue or taken out of the other gasoline tax, is that right? It was a special premium tax put on through--

Mr. Dribnenky: It was an add-on of two cents a gallon at the pump.

Mr. Swart: Yes, it was an add-on. It was not anything that was there that was taken.

Mr. Hampton: I want to ask you also about the internal workings. We have heard a lot of details from someone saying: "Well, a public system is an absolute monopoly. It does not allow the consumer any choice." It is my understanding that in Manitoba certain basic coverage is required, and you are required to purchase that from Autopac. Is that correct?

Mr. Dribnenky: That is correct.

Mr. Hampton: Now, there is also what is called extension coverage. That is, if you want to buy down your deductible, or if you want to increase your coverage against an uninsured or underinsured third-party driver, or if you want to increase your other benefits--

Mr. Dribnenky: Your liability insurance.

Mr. Hampton: That is right. Do you have to purchase that from Autopac?

Mr. Dribnenky: No. That is in competition with the industry, that aspect of the extension insurance over and above the basic coverage.

Mr. Hampton: So you could go to an insurance agent, an insurance broker, and ask him or her, "Give me the best deal for uninsured or underinsured other driver," or "Give me the best deal you have on collision"?

Mr. Dribnenky: Not on the basic collision.

Mr. Hampton: But on the extension.

Mr. Dribnenky: On your extension, where you are buying down your deductible--it used to be \$200--from \$350 down to, say, \$150 or whatever limit you want to buy down to, whatever is being offered on the market. In addition to that, you can buy public liability in excess of \$300,000 up to whatever level you want. In that aspect of it, that part of the business, we are in competition. It is not compulsory to buy it with MPIC.

Mr. Chairman: May I just ask a question, because I am unclear on it. Does everybody buy collision?

Mr. Dribnenky: Everybody buys collision.

Mr. Chairman: I was just wondering. I was not sure, but I have heard that. I do not remember where I heard it.

Mr. Hampton: There was a reference earlier to \$36 million in reinsurance. I come from a constituency where all I get is Manitoba TV, so I was able to watch the committee hearings on the issue of the \$36 million in reinsurance. As I understand it, the minister has quite simply stated that--

Mr. Chairman: Were they as exciting as these, Mr. Hampton?

Mr. Hampton: Actually, they are more exciting. Manitoba is an extremely politicized province, and so everything is very exciting.

As I understand it--and I believe this is reflected in the annual report--the \$36 million is for claims incurred but not reported arising from international assumed reinsurance treaties, and in fact that loss may not come in until the year 2000.

Mr. Dribnenky: That is correct. This type of business has an awfully long tail to it, so there are probably claims that have not even been reported yet that eventually will become our responsibility under a reinsurance treaty.

Mr. Hampton: Is there some discretion, then, in how this is accounted for and in terms of setting aside money for it or setting aside revenue to cover that?

Mr. Dribnenky: No, I do not think there is that much discretion. The acceptable way of dealing with that is establishing an "incurred by not reported" to the best of your ability, based on the information that you may have.

Mr. Hampton: And that has been done?

Mr. Dribnenky: That has been done.

Mr. Hampton: Some things that I considered to be pretty slanderous were said about public insurance corporations over, say, the last 10 months in Ontario. By the way, you indicate that your rate management indicates what rate increases you believe are required according to your statutory goal, which is to break even over a long term. You recommend rate increases, the board of directors then approves them and the cabinet will--

Mr. Dribnenky: Has the final approval.

Mr. Hampton: --has final approval, so that cabinet does have some rate setting capacity?

Mr. Dribnenky: They definitely have some input into the--

Mr. Hampton: Just so you do not feel that you are all alone, I want you to know that the Minister of Financial Institutions (Mr. R. F. Nixon) in this province set a rate cap in April last year immediately before going into a provincial election--just so you know that, OK? You are not alone. At that time he indicated--

Mr. J. B. Nixon: On a point of clarification, Mr. Chairman: He did not set any rate. He does not have the authority and never has had the authority to set rates. It was obtained as a result of voluntary compliance.

Mr. Swart: He introduced a bill.

Mr. Hampton: He introduced a bill indicating that there would be a rate cap, and the insurance industry, in the interests of going into an election, held the rates down.

Mr. J. B. Nixon: And continues to do so, notwithstanding that there is an election past.

Mr. Swart: What was that 4.5 per cent increase that we got right after the election?

Mr. Hampton: I wanted to ask you this: Over the years, have you done opinion polling or customer tracking, asking your customers if they are satisfied with Autopac, if they find Autopac to be a suitable product?

Mr. Dribnenky: Yes, we have done that. It has been a while, so I am not clear as to what the results were.

Mr. Zacharias: We tracked a number of our claimants. We processed claims and tested them, had them complete a questionnaire with respect to how satisfied they were with the service and the information we got from the claims people they dealt with. The overall results are in the very high 80s as far as the percentage of people who were quite satisfied with the service and the claim service that they did get is concerned.

Mr. Hampton: I see. Does that also indicate rates? Do they also refer to rates?

Mr. Zacharias: No, that was strictly on claim service.

Mr. Hampton: Have you ever looked at people's reactions to insurance rates over the years? You have been there since 1970. I guess that is 18 years.

Mr. Dribnenky: I think we must have, but I do not have that particular information with me and I do not recall what those results were.

Mr. Hampton: Have you ever received any other money from the government other than the \$18.6 million in gasoline tax that was specifically set aside to track drivers who are on the road a lot? Have you ever received any other government money?

Mr. Dribnenky: When we were starting up back in 1971, we received advances of \$320,000, which were repaid.

Mr. Hampton: That was a loan?

Mr. Dribnenky: That was, in effect, a loan, and we repaid it with interest.

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Mr. Hampton: You have received no other government funding whatsoever?

Mr. Dribnenky: That is correct.

Mr. Hampton: Your reserves, your profits, your investments you have earned on your own?

Mr. Dribnenky: Yes. There is no equity whatsoever by the government.

Mr. Hampton: One of the comments that was made here was that you would lose millions of dollars in the first years, that you lost millions of dollars in your first years of operation. Is that a correct claim? That was made by--well, it is hard to say. Sometimes it said that the Insurance Bureau of Canada said that; sometimes it is the Insurance Brokers Association of Ontario; sometimes it is called the Ontario private automobile insurance industry.

Mr. Dribnenky: We did lose a considerable amount of money in the early years, which is, again, not really that uncommon.

Mr. Hampton: What were your losses the first year, in 1971?

Mr. Dribnenky: In 1971 we had a \$1,800 profit.

Mr. Hampton: So you broke even that year.

Mr. Dribnenky: Yes. In 1972 we had a \$710,000 profit; in 1973 we had a \$10-million loss; in 1974 we had another \$10-million loss. After that we had profits for the next five years.

Mr. Hampton: Were those losses covered out of your own--

Mr. Dribnenky: That is correct.

Mr. Hampton: I see. So there is no government subsidy to cover that.

Mr. Dribnenky: No.

The Vice-Chairman: You may want to note that Mr. Swart had one more question to ask, and you have five minutes left.

Mr. Hampton: When I look at your annual report for 1986, I see that you paid taxes amounting to 2.6 per cent of your total revenue.

Mr. Dribnenky: Yes.

Mr. Hampton: How would those taxes be accounted for?

Mr. Dribnenky: Those are premium taxes that are paid to the provincial government.

Mr. Hampton: I see. It indicates that you paid commissions of four per cent?

Mr. Dribnenky: That is correct.

Mr. Hampton: That is the usual commission you pay?

Mr. Dribnenky: That is the commission we pay to our agency force. There are 350 agents in the province.

Mr. Hampton: You paid internal administrative costs of 3.7 per cent?

Mr. Dribnenky: Correct.

Mr. Hampton: And claims expense of 10.1 per cent?

Mr. Dribnenky: Yes.

Mr. Hampton: Just to get back to the question the parliamentary assistant was asking earlier, when somebody gets into an accident for which he is at fault and he starts to accumulate demerit points or starts to accumulate a surcharge on his insurance, that money is taken in by the licensing section of the government?

Mr. Dribnenky: That is correct. They have the responsibility for the driver licensing.

Mr. Hampton: You also take in money from them in terms of car registrations, automobile registrations. Is that correct?

Mr. Dribnenky: We collect money on their behalf through our agency force.

Mr. Hampton: Then the agreement is that you take what is yours from them and they take what is theirs from you?

Mr. Dribnenky: That is right.

Mr. Hampton: And it is considered a tradeoff?

Mr. Dribnenky: Well, not the revenue that is collected, only the expenses that are associated with that collection.

Mr. Hampton: I see.

Mr. Dribnenky: The revenues we collect on their behalf are turned over to them. The revenues they collect on our behalf are turned over to us. For the expenses that are associated with the two systems, there is a shared-cost agreement.

Mr. Hampton: If I add up your taxes, commissions, administrative expenses, claims expense, it looks as if it comes to about 20 per cent in 1986.

Mr. Dribnenky: Yes.

Mr. Hampton: Is it true generally that that is the percentage of your revenue that goes towards expense?

Mr. Dribnenky: Over the long term it is around 20 per cent.

Mr. Hampton: Is that equally true in this past year, do you think?

Mr. Dribnenky: In the past year the expenses were a bit higher, but, as I have indicated before, obviously if you are going to lose \$60 million, your revenues were not high enough, OK? That accounts for the increase in that expense ratio.

Mr. Hampton: I want to talk just a minute about your investments.

The Vice-Chairman: Mr. Hampton, there are precisely two minutes left.

Mr. Hampton: What investments do you have? What is the amount of your investments?

Mr. Dribnenky: Our investments to October 31, 1986, totalled \$279.5 million.

Mr. Hampton: Are there some restrictions placed upon you on where you can invest?

Mr. Dribnenky: Yes, there are.

Mr. Hampton: What are those restrictions?

Mr. Dribnenky: Principally, the investments are kept to Manitoba. If the bonds are available, the investments are in municipal bonds, hospitals, schools.

Mr. Hampton: The provincial government requires that?

Mr. Dribnenky: That is the government policy.

Mr. Hampton: What is their theory in doing that? Do you know what it is?

Mr. Dribnenky: I would not like to answer that question on their behalf.

Mr. Hampton: I understood they want the money from the insurance revenue to benefit the province.

Mr. Dribnenky: They want to keep the money in Manitoba. That is the way it has been explained to me.

Mr. Hampton: I know you are restructuring your rates to a certain extent. I read the Winnipeg Free Press. I wonder if you can just comment on a couple of things. The basic insurance assessment is going to increase from \$15 to \$35 effective January 1, 1988? That is the basic insurance assessment?

Mr. Andrachuk: On the driver's licence.

Mr. Dribnenky: That is on the driver's licence, yes.

Mr. Hampton: What is the rationale for that?

Mr. Dribnenky: That is basically to pick up the costs of claims that we incur in our accident benefits that we pay, no-fault accident benefits.

Mr. Hampton: I understand you are really getting tough with drivers who get into fault accidents. Is that correct?

Mr. Dribnenky: We are getting tougher.

The Vice-Chairman: Mr. Hampton, your time is technically up. How do you wish to handle that?

Mr. Hampton: If the witness could explain just the question I have asked, I think that would be sufficient.

You indicated you are getting tougher. What is the change and why the change?

Mr. Dribnenky: One change is that we are going to start a demerit surcharge at four points instead of six. The other change is that we propose, if an individual has accidents where he is responsible 50 per cent or more, that the surcharge be increased and the surcharge be paid for a longer period of time. Those are two things we are doing.

Mr. Kanter: I would like to ask a question or two about the frequency of claims that are made against the Manitoba Public Insurance Corp. I notice in the 1986 report that the claims were at the rate of about 34.9 per 100 vehicles, is that correct?

Mr. Dribnenky: That could be.

Mr. Kanter: I took that figure from page 12 of your report.

Mr. Dribnenky: That is 1986? OK.

Mr. Kanter: Would you have any information on the number of claims for 1987?

Mr. Zacharias: The number of claims increased only slightly, by 1.2 per cent, so the ratio should not change much.

Mr. Kanter: Is it correct that that statement indicates that more than one in three vehicles made a claim against the insurance company in 1986?

Mr. Dribnenky: I think that is about what the ratio is, one in three.

Mr. Kanter: That figure seems quite high to me. I am wondering if you could give us any comparative information on that figure vis-à-vis other public or private systems?

Mr. Dribnenky: I think it is a matter of how you count claims, and the insurance industry is not consistent as far as claim counts are concerned. You would have to see how the industry or how each company counts claims

compared to other companies before you can come up with any comparisons. There is quite a wide variation.

Mr. Zacharias: As an example, some companies, if they have a liable motorist whom they insure, will open one claim file for that liable motorist, and if he had hit 10 other cars, they would all tie back into that one file, so they are counting that accident as one claim file.

In Manitoba, we would open a separate file for each vehicle involved and handle the claims separately, so we would end up with a greater number of claim files even though there might not be a greater ratio of accidents.

In Manitoba, we would open a separate file for each vehicle involved and handle their claims separately, so we would end up with a greater number of claim files even though there might not be a greater ratio of accidents.

Mr. Kanter: Or occurrences. The figure of 34.9 per cent, almost 35 claims per 100 vehicles, does sound rather high to me and I am wondering if you could express an opinion. I know it is a difficult question, but do you think there is any greater tendency to make a claim against a government-run insurance company than there might be against a private company?

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Mr. Zacharias: In Manitoba, every vehicle carries collision coverage so that if you have a situation where people do not carry collision coverage and become involved in an accident, that is their responsibility. There is no claim stemming from that because there is no coverage, whereas in Manitoba, each vehicle is insured.

Mr. J. B. Nixon: Could you tell us what the average amount paid per claim is?

Mr. Zacharias: This last year it will be in the area of \$1,000, and it was around \$890 for 1986, I believe.

Mr. J. B. Nixon: That is all claims?

Mr. Zacharias: That is right.

Mr. Dribnenky: Again, based on our claim count, so how do you measure it?

Mr. J. B. Nixon: I can only guess. Twenty per cent to 30 per cent from what we are told is the average value of a claim in Ontario. Do you have any comments on that?

Mr. Zacharias: Counting the number of claims in a different manner, it is tough to compare the two figures unless you do studies to know how many actual occurrences there were that we are dealing with compared to what is happening in another jurisdiction.

Mr. Dribnenky: To give you an example, our number of collision claim files is about 120,000, whereas the total number of claims are, say, 245,000, so it depends.

Mr. J. B. Nixon: Can you tell us what the average value is of your bodily injury claims?

Mr. Zacharias: I do have some information on that. In 1986, we were looking at \$5,200 for each injury file that we opened, on average, for each person who was injured.

Mr. J. B. Nixon: Would that include the collision damage if there was collision damage on the same claim?

Mr. Zacharias: No. That is strictly related to the injury claim.

Mr. Cureatz: I bring to the attention of the chair that time has run out and some government members have indicated they have other priorities at five o'clock. I think it is only fair that we continue with the next witness.

Mr. Chairman: Actually, there are a few minutes left, but I recognize that statement. Mr. Sola was the last person, I think.

Mr. Sola: You have stated that your mandate is to break even. How much leeway are you given on a yearly basis in your calculation of the break-even point? In BC, they get plus or minus one per cent.

Mr. Dribnenky: That has never been set, the amount of leeway that we have. That has never been established, to my knowledge.

Mr. Sola: You have said that extended insurance is covered by private insurance companies. Do you also provide extended insurance?

Mr. Dribnenky: That is correct.

Mr. Sola: In direct competition with the private companies, how much of the market would you have in the extended insurance?

Mr. Dribnenky: Over 90 per cent.

Mr. Sola: Over 90 per cent; so your rates are competitive then. I just wanted to check into that because I found it intriguing that you do compete against the private sector, and I wanted to see how competitive you were.

Mr. Chairman: There is one minute left. We had heard--I think it was from the broker from Manitoba, or it was the fellow who was Manitoban and Ontarian--that because the broker's job was simply being there to take the order, sometimes he was not notifying people of the lapse of their insurance. Is that accurate or is there some mechanism that your government has to notify an individual that his insurance is going to lapse?

Mr. Dribnenky: We have a common expiry on all our insurance. All insurance expires at the end of February, so there is notification to everybody and by March 1 they have to renew their insurance each year.

Mr. Barbour: We issue a separate renewal application and it is mailed out to everybody who currently has an active vehicle.

Mr. Dribnenky: It is well advertised.

Mr. Swart: You are now talking about licence plate insurance, insurance that goes with the car. I presume that the premium that is paid along with the driver's licence comes up at the time of the birthday, or am I wrong on that?

Mr. Dribnenky: That is correct.

Mr. Barbour: When the driver's licence is due is when you pay your surcharges.

Mr. Swart: So that everybody knows, on the first of February or the end of February, he has to get those plates, and on the birthday he has to get it for the driver's licence.

Mr. Dribnenky: That is correct.

Mr. Barbour: If they are in that situation, yes.

Mr. Swart: It is the same as we have here.

Mr. J. B. Nixon: My understanding--perhaps you can tell me just yes or no--is that Autopac was successfully sued, the cause of action being negligence on the part of one of your internal brokers because of his failure to advise an applicant for insurance that excess insurance was available. Subsequently, he was sued and had to pay the judgement himself because he did not have the coverage. Is that correct?

Mr. Barbour: Could you rephrase that? I am not familiar with what you are saying.

Mr. J. B. Nixon: It is in Ontario Reports. It is an Ontario decision. Autopac was successfully sued.

Mr. Barbour: There is a case that is still before the courts that is being appealed.

Mr. J. B. Nixon: It may be appealed, but the decision--

Mr. Barbour: There was a decision in Ontario against the corporation in that it was alleged that it did not provide the best coverage that this person had allegedly asked for, yes.

Mr. J. B. Nixon: That was the decision, subject to appeal, that Autopac was--

Mr. Barbour: That is still subject to appeal.

Mr. J. B. Nixon: It had to pay the judgement.

Mr. Barbour: I certainly hope that will set a precedent.

Mr. Chairman: A quick supplementary, Mr. Hampton. Mr. Cureatz is giving you a little of his time to do that. Are you not?

Mr. Cureatz: That is right. I will take his when I am in the House.

Mr. Hampton: I understand that most Autopac policies are written by independent brokers. Was the policy in this case written by an independent broker or was it written by someone who was directly employed by Autopac?

Mr. Dribnenky: I believe in this particular case, if it is the same one, it was an in-house employee who was at the motor vehicle branch.

Mr. Chairman: Thank you very much. We appreciate your travelling here from sunny Manitoba. We wish you a safe trip back.

Mr. Dribnenky: Thank you very much.

Mr. Chairman: Our final presenter is Mike Bessey, director of research, office of the Leader of the Opposition, Manitoba Legislature. Maybe you would just have a seat. I understand that you do not have a written brief.

Mr. Bessey: No.

Mr. Chairman: Perhaps you have an opening statement. If it was brief, it would allow questions from the members. There is a matter that some members here have to attend to at five o'clock. We are not really giving you equal time, I suppose, but that is the nature of the beast.

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Mr. Bessey: I will try to keep my opening statement short. I am darn tempted to respond to the previous presentation first, but I will leave some of that.

First of all, I am delighted to be here and I thank you for the opportunity. I was born and raised in this province, in fact, in Mr. Swart's constituency. I remember shaking hands with him as a summer student. Now I am shaking hands at him, for the most part.

I understand that the mandate has been expanded beyond the consideration of just Bill 2, so that public versus private is appropriate.

Mr. Swart: I am having a little trouble hearing, if you would not mind speaking up.

Mr. Bessey: I am here essentially to speak on the aspect of public versus private, since the mandate of the committee has been expanded to include that. In terms of some of the details that have been covered by the Manitoba Private Insurance Corp and perhaps covered by brokers before, I will try not to get bogged down in numbers arguments.

Mr. Chairman: I do not think that is quite accurate, but I think Mr. Swart has expanded into that extent.

Mr. Bessey: I notice with interest that Mr. Cassidy suggested earlier that the committee go to Winnipeg to see how Manitobans rate public auto insurance. There was a question not even an hour ago by the last presenter as to the public and polls. I wish he could have been there yesterday when 1,500 people were on the steps of the Legislature jeering at the minister.

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It is not what it used to be. If it used to be the golden egg of crown corporations in Manitoba, it no longer is. Many questions have come up about political interference. I will describe some of it. Essentially, that probably is the critical problem with MPIC as the flagship of a public insurance corporation. The specifics of political interference concern the validity, or invalidity, if you will, of some of the reporting procedures of the corporation, for example, its annual report. Some of that has been touched on.

With regard to political manipulation of some of the claims costs and reserves, the loss of \$18 million and \$63 million in the last two years and the explanations that have come forward for those losses have been inadequate.

With respect to efforts of the New Democratic Party government to prevent an adequate flow of information: The only recourse the public has to scrutiny of a public corporation is through its legislative committee. Efforts to thwart that committee's proceedings have really obstructed the public's ability to know what is going on in the corporation. It is not just dollar losses which are offending people; it is the process of public insurance as much as anything.

The politicization of rate setting and the timing of it in election years has been touched on, and I will be willing to speak about that again. Some of the bonus schemes that are available to public insurance, such as discounts to senior citizens applied before elections and removed after elections, cause people a lot of distress.

Government program costs, which formerly were in government departments accounted for as part of the overall government deficit, have been dumped into the corporation, no longer showing up on the overall deficit.

There has been direction to use the corporation's investment funds for political purposes at a cost to the corporation. There is a real problem in terms of a bureaucratic adjustment process. It is the only game in town, and if you do not like it, you lump it. The opposition would say part of the problem is incompetency in management that seems to flow with government control of a corporation.

In terms of the specifics, the validity of the reporting in the \$36 million that did not show up is not an Autopac issue per se in that it is a reinsurance issue. It really has reflected on the faith consumers have in the corporation, and in the annual report we consider--we do not trust the figures in the annual report, audited or inaudited, because they are qualified statements.

There is a process of overreserving that can be used to inflate claims costs. For example, when the corporation comes and says the reason it lost \$63 million is that claims costs increased by \$41 million, there is no guarantee that those were actually claims costs. There could be a built-in overreserve, so that you are indeed building up a fund to cushion against any future rate increases at an inappropriate time, i.e., an election time.

There is also inadequate information that comes forward about the reasons for the net loss of \$116 million in two years. That is a problem of process as much as anything. Public insurance only provides one avenue; that is a political avenue, and we know how those can get bogged down.

I will not bother to break down the numbers in terms of how I could detail why we believe there is \$20 million to \$30 million missing in this annual report. We could get into that if we had time. I would be glad to send you submissions on any aspects of the supporting documents, whether they be cabinet documents which we have come into possession of, minutes of the corporations, those kinds of things. If there are specifics, I will be delighted to send them.

In terms of the politicization of rate setting, it has been well documented in our committees, it has been admitted by the minister, that the flow of information in terms of the rate setting process is not just as simple as was described a few minutes ago. In theory, the corporation goes to cabinet with recommended rates, and cabinet approves or disapproves them and asks for revisions. Occasionally, it works the other way around. Cabinet goes to the corporation with suggested rates, in which case the corporation is somewhat pressured to accept the cabinet's will.

For example, we know of a case admitted to and in Hansard, where the cabinet went to the then president requesting a five per cent rate decrease in one year--an election one, it was 1985--and because they did not want it to look like it was because of an election year, a five per cent decrease the year subsequent.

The corporation president absolutely refused, declaring that it would bankrupt the corporation, and provided an analysis of what would happen to the corporation's finances. It was not good enough for cabinet. He said cabinet's communication was, "Give us a scenario of alternatives." In which case, the corporation president showed a two per cent reduction in one year. He showed what a two per cent reduction next year would do, or a two per cent reduction in one year and a zero per cent reduction the next year would do, and I believe there were a couple of alternatives following that.

That communication went to the board of the corporation and through the board and the minister responsible, to cabinet. Interestingly enough, the minister's quotations in Hansard will show that, while indeed the direction of information was from cabinet to the corporation, he could not quite remember whether it was five and five he had asked for, or just what it was and since three boxes of his ministerial files were accidentally shredded, he could not go to check.

I should also mention that, in terms of the process being shut down, it is somewhat distressing, in terms of the scrutiny of the corporation's operations, since the government decided that none of the executives, such as those who were here today, would speak to our legislative committee. In essence, we could not ask them questions, ironically as you were able to do today.

The president of the corporation, the new president, was to do all the answering. Unfortunately, he was not there and could not answer for anything for the years when he was not there and the committee ended.

That is the problem of process. You put it into the political arena and it becomes a political ball park and we have trouble. There are all kinds of dumped program costs. I mentioned briefly somewhere the costs the former Department of Highways dumped into the corporation against the corporation's will.

The president of the corporation, on the life insurance study, again fought having Autopac pay for the costs of that, almost half a million dollars. The Provincial Auditor corresponded with cabinet, saying: "This is an illegitimate cost to be borne by the motorists of Manitoba. Cabinet's decision was, "Too bad, that cost will be borne by Autopac." And indeed it was.

A similar thing happened, it was mentioned, with advertising before an election campaign, advertising on behalf of the government of Manitoba. What happens is, to the government, this looked like an attractive corporation that was bringing in revenues.

Mr. Chairman: Could I stop you? You have given us answers that cabinet apparently made. Do you not have cabinet secrecy in Manitoba?

Mr. Bessey: We do, but frequently, and not frequently enough, the opposition comes into possession of some cabinet documents.

Mr. Chairman: This is all "plain brown envelope?"

Mr. Bessey: Absolutely.

Mr. Chairman: Thank you. We have the same plain brown envelope from time to time here, too.

Mr. Bessey: I would be glad to send some documentation on this and most of it is available in Hansard and most of these documents were tabled in the House.

Mr. Chairman: We have just 15 minutes left and that is five minutes to each caucus, starting with Mr. Cureatz and then Mr. Swart.

Mr. Bessey: I wasn't finished.

Mr. Chairman: Pardon? Oh, I am sorry. I thought you were finished.

Mr. Bessey: It is actually probably easier and better that I do have that.

Mr. Chairman: You paused. You should never pause.

Mr. Bessey: I was coming up for air. Actually, you know, I have several pages so it will probably be easier to open it up. I would be glad to answer questions.

Mr. Chairman: All right. Mr. Cureatz.

Mr. Cureatz: Thank you, Mr. Chairperson. While it was great fun to listen to the carryings on of the political strife of the government in Manitoba, I know much to the chagrin of Mel Swart, however, trying to get to the meat of the issue in terms of the effect that is happening in Ontario with our Bill 2, I would like to ask, in terms of your noted as--and of course, I have to point out that I too am a Conservative and have seen the best and worst of times here in Ontario. I am wondering, and no disrespect to the--

Mr. Dietsch: What is the question?

Mr. Cureatz: Well, the question is, it is coming. Listen, I have five minutes. The chairman says I can use it the way I want--berating the New Democratic Party and its' government in Manitoba--but in the alternative, I am wondering what the position would be if an election were held and the Conservatives took power. Would it be the continuation of a publicly-funded automobile insurance program or something else?

Mr. Chairman: Do you know something we do not know, or what?

Mr. Cureatz: No. The follow-up question--these are my two questions, I am going to carry on to my five o'clock appointment--is I am curious about what that answer is. And in terms of what he is indicating, all we are doing is replacing one huge bureaucracy for another.

We have heard many complaints over the last few weeks about large insurance corporations and we had the particular witness, Kathy Wilson, I believe, about the problems that she encountered and now we are hearing from this gentleman about instead of it being a private bureaucracy we have government bureaucracy with the little catch-on of the political angle in terms of manipulation before and after an election and the like.

So those are my two questions.

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Mr. Bessey: Unfortunately, once established and institutionalized, privatization of our insurance corporation is much more difficult than privatization of some other ventures.

First of all, we would have a difficult time attracting business back that we chased away. As far as our management, when we were in government--and what we intend to do, and I do not mind answering that because we have clearly stated what we intend to do and will commit to.

First of all, saddled with the public insurance corporation, our approach was to leave it in the hands of the professionals and let them run it. If it is to work at all, it can only work in that fashion. The temptation is too great to play with it. In the hands of a social democratic government, the temptation is too great to use it as an instrument of social policy, especially one of financing social policy.

We have stated, since this whole issue came up, that we feel that we need a change in the legislation similar to our Manitoba Hydro Act, subsection 39(1), whereby any consumer group can force hydro before the public utilities board to provide all kinds of evidence and subpoena the government if necessary. Ironically, it is a similar situation in terms of the management of those crown corporations and the kind of information that is coming out. Consumers are suing the government for information. This is the 1980s.

We will run government, preferably this year, and force the corporation before the PUB. There are problems with that because utility board people may not understand the affairs of the corporation and can as easily, perhaps, screw up the finances by delaying rate increases that are necessary. The problem becomes not imposing rate increases, for example, that are in accordance with their corporate policy and required. If government gets its fingers in there in any way, it is a problem. You are not stuck with it. We are. I can only mention the implications in that.

Mr. Cureatz: You know Bill Davis never, ever interfered in the political process of crown corporations like Ontario Hydro, so--

Mr. Chairman: That is your final question.

Mr. Cureatz: That is right.

Mr. Chairman: Who is here to answer it?

Mr. Cureatz: Just 16 of us now.

Mr. Chairman: I see. Mr. Swart?

Mr. Swart: Yes, you had a demonstration out there the other day. You said 1,500 people. Our two newspapers here--one said 900 and one said 1,000. Were you part of that demonstration?

Mr. Bessey: I attended.

Mr. Swart: You attended the demonstration. You were part of it. You are here representing the Conservative party, right? It says in the paper that

the Conservative party organized it. Is that right?

Mr. Bessey: That is correct.

Mr. Swart: They organized that. It was political. And what were you asking for? What was the demand on the government?

Mr. Bessey: I have to tell you, as a party we have never been accused of organizational effectiveness before. In 20-below weather to have 1,500 people out on that day was a delightful situation.

Mr. Swart: One paper said 900 and one said 1,000. What were you asking for? What was the demand on the government?

Mr. Bessey: Basically support for the concept of--in the absence of legislation and the government refusal to go to PUB--to use the public's influence to say: "Hey, the public wants to know where these losses went. Given your last year's explanation of why you hid \$36 million before an election and revealed it afterwards, it is as much a problem of faith as a problem of numbers and rate increases. And so, if you will not go of your own volition before PUB or before the standing committee of the Legislature where we can have an opportunity, as you have today, where the executors can answer detailed questions. We do not even get that opportunity. Perhaps with public pressure, you can enhance some accountability into the procedure.

Mr. Swart: Our paper said that it was a demonstration against rate increases. Is that not right?

Mr. Bessey: Of course, but subsequent to that or, I should say, complementing that, is the problem of faith.

Mr. Swart: They were demanding that the rates be reduced. Is that right?

Mr. Bessey: I should say that there were several submissions. Some of the submissions asked that be the case. For example, senior citizens who used to receive a discount that the government cancelled after the last election were asking that be returned to them.

Mr. Swart: So they were asking the government to interfere in the rate-setting process and reduce it, is that right? Part of your Conservative delegation, they were asking the government to interfere and reduce those rates?

Mr. Bessey: I would have to say that the senior citizens' groups and consumers' groups were not part of our--

Mr. Swart: You are evading my question.

Mr. Bessey: Pardon?

Mr. Swart: You are evading my question.

Mr. J. B. Nixon: You do not give him a chance to answer.

Mr. Swart: No, no. There are some in your group, a substantial proportion of your group--what it said here--was asking for a rate reduction asking the government to intervene and order a rate reduction.

Mr. Bessey: And what I am saying is that it was a seniors' group and a consumers' association in Manitoba that asked the government to interfere, and I think they would be insulted if I said they were part of the Conservative groups.

Mr. Swart: I just want to pursue that a little further. You are aware, of course, that have Ontario Hydro here in Ontario and that all of those decisions are made by the cabinet as to rate increases. In the same way, it goes before a board and it is a recommendation back to cabinet, the cabinet makes the decision and the rate increases. Are you aware of that?

Mr. Bessey: I cannot--I will not speak on--

Mr. Swart: Are you aware that the Conservatives in Ontario--that was their policy for decades?

Mr. Cureatz: No. I was never in cabinet long enough to confirm, as you well remember.

Mr. Swart: That is right. For decades, that was the way they operated and still do operate here under the Liberals. The corporation. And do you know here also that some of the rates were, at least, there was accusation by opposition parties that they were not increased as much as they should have been just prior to the election? That is part of the political process, is it not? It is part of your process too to try to condemn that. You were not, though, asking yesterday, nor has your party asked that Autopac be privatized.

Mr. Bessey: Right.

Mr. Swart: You have not?

Mr. Bessey: No, we have not.

Mr. Swart: In fact, when the Conservatives were in power, Mr. Filmon said it provided excellent service for the people of the province, better than the private sector.

Mr. Bessey: At the time, you will remember, we believed wrongly the position stated in 1986 in our report subsequent to that. The problem is, again, with public insurance, when we believed that, we probably made a mistake in saying that if the reserves are that high or too high, we can offer the consumers a 10 per cent rebate. Unfortunately, we could not believe the books and the reserves were not that high and, of course, only the NDP government knew that. Once you have a public insurance corporation institutionalized as it is, you cannot just overnight get rid of it. Very few governments that come into power in a bi-polarized province like Manitoba have the political will because the seat difference is usually one or two.

Mr. Swart: Would you not suggest that, my gosh, if it is as bad as you say it is, that the people of Manitoba would be just be delighted to get rid of Autopac? Here you have a Tory party that is saying it is good and "We want to keep it," but it is just not being run well.

Mr. Bessey: What they are saying is, "Let professionals run the corporation and keep your political fingers the heck out of it."

Mr. Swart: Yes, that is right. I do not disagree with that. You make a political statements here, but it will be up to the electorate, right, in

the next provincial election to decide whether it has been well run or not. What you saying, in effect, is the principle of Autopac is good. It provided good service. The principle is good. It has not been well run. Is that what you are saying?

Mr. Bessey: What I have said is that it is institutionalized.

Mr. Swart: But--

Mr. Bessey: And that we would not privatize it.

Mr. Swart: Are you saying that your party is in favour of Autopac?

Mr. Bessey: What I am saying is that the party does not feel it is politically an option to privatize it.

Mr. Swart: I am sorry; would you repeat that?

Mr. Bessey: I say, there is no option. We do not have a option to Autopac.

Mr. Swart: Do you not have the option of privatization, as Thatcher did in England? Would not the people be delighted?

Mr. Bessey: We do not think so.

Mr. Chairman: Mr. Swart, Mr. Hampton wants to ask a question, and you are actually bending the time, but go ahead.

Mr. Hampton: It is my understanding that the Devine government is planning, and has actually proceeded some way down the road towards privatizing the general insurance section of the Saskatchewan government insurance.

Mr. Bessey: Right. That side of our insurance corporation, we have said, should be privatized too. That is not Autopac, by the way.

First of all, part of the problem is we have no business under the mandate of Autopac being in general insurance or in reinsurance where we lost \$36 million.

Mr. Hampton: Why, if you can privatize general insurance, why are your hands--

Mr. Bessey: There is no monopoly on general insurance. They are competing with the private insurers on it now.

Mr. Hampton: That has not stopped the Thatcher government from simply taking British gas or something and selling it.

You have said that your hands are tied. I am searching for a reason why the hands are tied.

Mr. Bessey: First, we chased the insurance business out of the province, and in what is essentially a vacuum, you do not overnight replace it. Second, it has become institutionalized. In some respects, it is a sacred cow.

Mr. Hampton: I guess I want--

Mr. Bessey: Do we want a political--the point is, the public is concerned with rates and what the government has to do is get its fingers out of it. First step.

Mr. Swart: Has your party come out and stated publicly in Saskatchewan that you are opposed to the principle of Autopac and that if it could be reprivatized, it should be?

Mr. Bessey: I am with the Manitoba party. I do not speak about Saskatchewan.

Mr. Swart: Manitoba; I mean Manitoba, of course.

Mr. Bessey: Have we said we are in support of privatization? Sorry?

Mr. Swart: Yes, that you are in support of privatization, that in principle you believe it should be privatized. Has the party said that?

Mr. Bessey: No.

Mr. Swart: No, I did not think so.

Mr. Chairman: Mr. Swart, we have let you go a little beyond because, in fairness, I thought we should in the light of the fact that the other members had an hour for the Manitoba delegation--

Mr. Swart: Mr. Chairman, on a point of order: the insurance brokers were invited here--

Mr. Chairman: No, no. Look, no, I am not saying that in any critical way. I am just saying that we did it because I think it was a matter of fairness. I might add as well that if you had any questions of the BC delegation that you felt had not been answered--I guess I have to plead guilty. If you write the questions to them, they can fax the answers to us and we will append them to the documentation that is here just so that you do not miss out on any questions.

Mr. Swart: I have in my files 10 times as much information as was derived here today, letters from the Insurance Corp. of British Columbia.

Mr. Chairman: OK. Well, maybe you would fax that to us then.

Mr. Swart: I would be glad to--

Mr. Chairman: Ms. Poole has a tiny question.

Ms. Poole: It just requires a one-word answer. We heard that the profits in 1985, or the surplus, was \$9 million. In 1986, the deficit was \$18 million, and in 1987, a deficit of \$60 million. Would you please tell us the date of the last provincial election?

Mr. Bessey: March 19, 1986.

Ms. Poole: Thank you. I think I rest my case.

Mr. Chairman: Thank you for coming. Have a safe trip back to

Manitoba. We will watch for you in the newspaper and what unfolds in that province.

I am advised by our researcher that she wants some direction from us in terms of the summaries we are missing from the past couple of days and recognizing we are going to Sudbury, it may create a grave difficulty for Susan unless she spends her entire weekend, I guess, doing it.

Ms. Swift: I can get the summary of recommendations as of today for you on Monday, but when you start your clause-by-clause, you will not have before you the summary of recommendations from the people in Sudbury.

Mr. Chairman: Any difficulty with that?

Ms. Swift: If that can come Tuesday afternoon or Wednesday morning at the latest--

Mr. Chairman: I see no opposition to that.

One further thing. We are going to Sudbury on Monday. I would inform you that we are starting clause-by-clause Tuesday morning at 10 o'clock in committee room 1.

I understand we had an undertaking from all parties that clause-by-clause would be concluded by Thursday at the latest and for the bill to be reported to the House for the opening of the Legislature. If it is not, I am going to be seeking unanimous consent to sit on Friday and, if necessary, to sit on Saturday, and that may be a first.

Mr. Swart, do we have your amendments?

Mr. Swart: Well, I was just asking my assistant. Apparently they are on my desk up there. Do people want to wait here? We can bring them down in three minutes. If not, we can distribute them--

Mr. Chairman: Mr. Cureatz, Mr. Swart is giving us the NDP amendments. Is it the intention of the third party to give us the amendments today too?

Mr. Cureatz: No, I spoke with Mr. Runciman, and he indicated he would have them, but he has left. So we will have to wait if he does have any.

Ms. Poole: I would like to thank Mr. Cureatz for joining us. Since we lost Mr. McGuinty in Windsor, we had a noticeable lack of humour and he has provided that. Welcome back.

Mr. Chairman: I think we have created enough merriment for the people across Ontario. I think we will adjourn this meeting and we will adjourn to Sudbury at 10 o'clock in the morning or whenever we get there.

The committee adjourned at 5:03 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ONTARIO AUTOMOBILE INSURANCE BOARD ACT

TUESDAY, FEBRUARY 2, 1988

Morning Sitting

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Farnan, Michael (Cambridge NDP)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Furlong, Allan W. (Durham Centre L) for Mr. Chiarelli

Swart, Mel (Welland-Thorold NDP) for Mr. Farnan

Clerk: Mellor, Lynn

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witness:

From the Ministry of Financial Institutions:

Nixon, J. Bradford, Parliamentary Assistant to the Minister of Financial
Institutions (York Mills L)

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, February 2, 1988

The committee met at 10:15 a.m. in committee room 1.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT
(continued)

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

The Vice-Chairman: The committee will get started. I will pinch-hit while we are awaiting the chairman. I understand that at the outset Mr. Nixon has a brief statement he would like to make. Is that in accordance with the committee's wishes?

Mr. J. B. Nixon: Madam chairman, members of the standing committee on the administration of justice, before proceeding to clause-by-clause review of Bill 2, the Automobile Insurance Board Act, 1987, I would like to make a brief statement to the members of the committee.

As you know, Bill 2 deals with the establishment of the Ontario Automobile Insurance Board and a mandatory, industry-wide automobile insurance risk classification system to be set by regulation. Over the previous three weeks we have heard much comment and opinion relating to both the board and the classification system, all of which I am sure will be very helpful to your clause-by-clause review of the bill.

We have also heard comments and concerns about other aspects of automobile insurance which, while not covered by Bill 2, are none the less part of the overall reform initiatives announced by the government last April 23. In his opening remarks to these hearings, the Minister of Financial Institutions (Mr. R. F. Nixon) informed the members of the government's intention to introduce amendments to the Insurance Act, consistent with our April 23 announcements. I would like to take a few moments to expand on the minister's comments so the members are aware that a number of the concerns raised during public hearings will be dealt with through the proposed amendments to the Insurance Act. If you do not have a copy of the statement, it will be before you very shortly.

Our proposed amendments to the Insurance Act fall into three broad categories: (1) expanded access to and disclosure of information; (2) expanded protection of consumers against unfair practices; and (3) expanded enforcement powers.

The expansion to the ministry's access to insurers' information will result in an increase in the amount, type, quality and reliability of information. Such an enhanced information base has a number of benefits. For example, any potential insolvency problems will be more readily identified and dealt with more expeditiously, thereby enhancing protection for consumers. As well, the publication of pertinent information by the superintendent will result in a more informed, educated and protected consumer, one better able to determine the quality of the products and service being offered to him or her.

In addition, the superintendent will require insurance companies to provide individual consumers with details on how their premiums are determined and the cost of each component of their policies.

Basically, what we want to achieve is to create a more understandable application form and policy specification sheets that are straightforward and written in simple language, while at the same time eliminating personal information, such as age, sex and marital status, that is no longer necessary under the new classification system. You may recall that Dr. Slater's report to the government had many themes. One of the strongest themes was to the effect that no one had adequate information as to the nature of the operations of the insurance industry, and that was a prime requisite for this government to proceed on.

In dealing with expanded protection of consumers against unfair practices, there will be a number of specific provisions. For example, we are proposing a broader definition of what constitutes an unfair practice. Included will be a prohibition on making the issuance or amendment of an automobile policy conditional upon the purchase of another insurance policy, such as your householder's policy.

1020

Other provisions that will become unfair practices include the following:

A provision by which policyholders receive policy renewal notice information on a timely basis, at least 30 days prior to policy expiry date; this will address those situations where cancellations have been arbitrarily made at the last minute;

Provisions requiring prompt and uninterrupted payments of accidents and loss of income benefits under schedule C of the Insurance Act, the so-called no-fault benefits;

Provisions to accommodate situations where there is a high-risk driver in the household will also be included.

To ensure compliance with these initiatives, the superintendent of insurance will be empowered to issue cease and desist orders, a power which he does not have now.

In the area of expanded enforcement powers, we are proposing the following:

Increased fine and penalty provisions; more onerous penalties for those violating the act and expanded definitions of who may be found guilty of an offence are needed to ensure greater consumer protection;

Provision giving courts the ability to order compensation and restitution in appropriate cases;

An extension of the limitation period from six months to two years for pursuing prosecution of these offences, to ensure offences do not go unpunished; and

A provision allowing the superintendent of insurance to apply to the Supreme Court of Ontario for the issuance of compliance orders.

Coincident with our proposed amendments, and to ensure their effective application, there will be administrative and operational changes within the insurance branch of the Ministry of Financial Institutions. These include measures such as:

Our consumer policy service officers will be available to address concerns from consumers who may feel they are not being treated fairly;

The insurance division will make representations before the insurance board during hearings to ensure that the views of consumers are relayed both with respect to rate setting and to changes that may be appropriate to the classification system;

A more accessible source of general information for consumers, members of the Legislature and the media.

Committee members may be interested to know that while these initiatives relate to automobile insurance, the generic nature of some of the proposed amendments will incidentally benefit other insurance consumers. I hope my remarks will help alleviate some concerns over issues raised during public hearings and that this information will help bring a clearer focus to the clause-by-clause review of Bill 2. Thank you very much.

The Vice-Chairman: The committee's public hearings have spread over a number of weeks, and we will now proceed to undertake clause-by-clause of Bill 2.

Mr. Swart, did you have something you wanted to raise before that?

Mr. Swart: I would like to put a procedural motion before that. We have had some discussion, particularly when Mr. R. F. Nixon made his original comments relative to whether there should be some informal report. We realize that according to procedure the report from this committee cannot be tabled in the Legislature; we deal with the bill. However, we did talk about a letter or some form of report. I feel strongly that after spending three weeks in hearings where we had a great many submissions and, I suppose, heard from the top people both in consumers' matters and in the insurance industry, there is merit in making some kind of a report to the minister. Therefore, I would like to move a motion and speak to the motion in a little more detail afterwards.

The Vice-Chairman: Mr. Swart moves that the committee make a report, with recommendations, to the Minister of Financial Institutions on its findings from its three weeks of public hearings on auto insurance.

Mr. Swart: Hello, Mr. Chairman.

Mr. Chairman: How are you, Mr. Swart? I materialized here. Actually, I was better looking before I arrived.

Mr. Swart: That is true.

If you accept that motion, Mr. Chairman, I would like to speak to it. There are a number of things that many members of this committee--

Mr. Chairman: Before you proceed, I wonder if that motion could be committed to writing either by you or your colleague and then we could continue.

Mr. Swart: I do have it written down.

Mr. Chairman: It is written. Perhaps we could have that up here at the chair. I think we can have it copied. The clerk will make copies and then you can continue to speak to it. It looks very short.

Mr. Swart: It is. You did not expect a short one from me.

If I can continue to speak to it, I was going to say that there are a number of issues about which this committee not only heard, but about which we have questions over and over again. Many members of the committee have opinions on these items. After three weeks of these public hearings, whereas this committee is now more knowledgeable than any other group of the Legislature, of MPPs, about insurance, I think there is merit in submitting this informal report--I do not care whether you call it a letter or a report--with recommendations to the minister in charge. Otherwise, I feel a lot of what we have done will bear no fruit whatsoever, if we do not express our views to the minister.

I am not suggesting our views will be unanimous. I know very well that, with six Liberals on this committee, our views will primarily express their views. I am also aware, from questions that have been asked by members of the committee, that they have some concerns and ideas and perhaps would like to have those put in the form of recommendations. I can think of such things as forgiveness of the first event. We have had considerable discussion about that. We have heard the pros and cons on it. We might want to comment on that in the report as well as such things as a public complaints commission and an arbitration settlement board, which we have heard recommended to us.

There is a whole question of whether insurers are now going to refuse to insure high-risk drivers such as young males if the rates are lowered to the same as those for females. There are such things as whether the board should require risk management plans and give a special rate for those kinds of things. I think we ought to wrestle with a method to tie penalties to drivers' licences rather than just leaving all of the insurance on the automobiles. Of course, perhaps most of all, there is the question of the weighting factors in the classification and the classification itself.

I want to say that I personally have real concerns about the proposed reclassification system, as pointed out--and I have these documents with me--by the consumers. It leaves everything pretty well the same. What was a heavy penalty on young male drivers is going to be transferred to inexperienced drivers, which means all young people. The great bulk of it is going to be transferred there.

I would remind you that last Wednesday, I questioned Ms. Bass of William H. Mercer Ltd., who, as we all know, did the projections on the change in rates relative to the draft classifications which have been set up by a committee of the Ontario government. When I asked her about that, and I think it is worth quoting, I said: "A young person or any new driver--my legislative assistant, for instance, has not yet got three years' experience and we call her a new driver, but under pleasure use, low mileage, three years event-free--exactly the same qualifications there--three to six years' experience, even though she has not had an accident at all, she would pay \$146, more than two and a half times as much as the person who had 35 years' experience, myself, if I was claims-free for three years. My interpretation is correct on that, is it not?" Ms. Bass said, "Yes."

I asked, "That is based on the proposals under the draft classification?" Ms. Bass said, "It is based on what we think will be the prices applied to that proposal."

Then I said to her more bluntly: "You replace experience for age. Experience is a much, much greater factor than even driving record. There are others here. Even if you have four events and you have a 35-year driving record, you do not have that kind of increase. That is true, is it not?" She said, "That is right."

I said: "So, in effect, given that most new drivers are young people--I do not have statistics on this, but I suppose that 90 per cent of people who start driving in this day and age start before they are 25." She said, "That is right."

Then I said, "It will be the young people mostly who will be in the very high rate category because they have had very little driving experience." She said, "It will definitely be mostly populated by people who are younger."

That means, as I have already stated, that these young people are really going to carry on. The only difference is that it will be both males and females who will be paying this.

1030

I think we have to question this with respect to young females, who, according to the statistics in the Ontario Road Safety Annual Report, constitute 7.3 per cent of the drivers and have only 7.4 per cent of the accidents. They are as good drivers as the adult drivers and yet they are going to have to pick up this extremely high premium. Mr. Sola, who is not here today, has raised this a couple of times and indicated that 10 per cent, that is, \$300 million of those premiums, are going to have to be picked up by somebody. They would not have to be picked up if we had a public system--I am not going to get into that right now--because there would be that kind of savings. But when there are not those savings, \$300 million is going to have to be picked up by somebody. The young females are going to pick up the bulk of that \$300 million. We are not, in fact, eliminating age. I think this committee should have something to say on that after hearing all the representations.

I would just like to point out that in the submission we had from the Ontario Human Rights commissioner, he made this quote in his statement. It is perhaps a little bit perhaps complicated for laymen such as myself, but I think it is apparent what he means. He quoted the board of inquiry which went into the Bates and Zurich Insurance Co. of Canada case:

"The basic premise of human rights legislation is that the merits of the individual should be assessed. Otherwise, bona fide requirements...might be established simply on the basis of statistical averages of group characteristics. This would merely be stereotyping in a new format, which is, if anything, more invidious than traditional prejudices because it has an apparently scientific base."

That was our chief commissioner for the Ontario Human Rights Commission. I am not going to go into the figures again in the Mercer report, but they bear this out, that this is what we are doing here if we leave all of these same costs with the young age group. We may eliminate sex as a classification factor, but why should the young females pick up almost that entire load? We

do not have statistics on what percentage of the load, but from what Ms. Bass said, they are going to pick up a very substantial load. The figures quoted show that the rates of those young females would be two and a half times those of an older, adult driver who had 35 years' experience.

I think we should have something to say about the weighting factor and about the other things I have mentioned. Therefore, I am moving this motion. I want to make it perfectly clear in moving this, Mr. Chairman, I am not sticky on whether this is a two-page document or a 10-page document, whether we class it as a letter or whether we class it as a report, but I do think the Minister of Financial Institutions should have the benefits of the collective wisdom of this committee with regard to classifications and certain other things.

Everyone recognized, certainly from the hearings, that the substance of Bill 2 is classification. I submit--of course, others will disagree with me--that the rate control board is going to be meaningless. Classifications are not. They are very substantive. Therefore, I think that as a group that has had--I do not know what it is--60 or 65 submissions in that area, we should be making a report to the minister.

Mr. Chairman: I gather what you are saying is you are not content that the summary of what has happened is going to go to the minister anyway. Is that not satisfactory, or do you want more?

Mr. Swart: No, it is not satisfactory.

Mr. Chairman: All right. I just thought I would inquire.

Mr. Swart: If I can just make the point, that report gives a recital of the submissions we have had, and that is very helpful to me and it will be helpful to others. I think the minister would like to have the opinions of this committee after we have heard and questioned the submitters.

Ms. Hart: The primary mandate of this committee, referred to it by the Legislature, is the clause-by-clause consideration of Bill 2. We are under some time pressure in that because the Legislature resumes next week. Mr. Swart makes some points that we may want to consider but, on the other hand, as we go through Bill 2, the government has some proposed amendments that go some way towards what he is saying. There is also some other proposed legislation, expected in the spring session, which touches on what he is saying.

What I propose is that we stand down the consideration of Mr. Swart's motion until we have completed clause-by-clause since that is our primary mandate. At that time, if we have some time, the committee may well want to consider something in addition to send to the minister bearing on the public hearings and on the points that Mr. Swart has raised this morning.

Mr. Chairman: I read that as a motion to postpone.

Ms. Hart: Yes, you read it absolutely accurately.

Mr. Chairman: Which is nondebatable, and I am not going to debate it either. I think we are going to have the vote on it. I am going to call for the vote.

Mr. Swart: Mr. Chairman, on a point of order: A motion to postpone is debatable. A motion to table may not be debatable but a motion to postpone

is certainly debatable. I would like you to show me any place in our rules of order where a motion to postpone is not debatable.

Mr. Chairman: According to the information I have, it is not debatable. It is a motion to postpone, and I am going to put the question.

Those in favour of postponing the matter, as suggested by Ms. Hart?
Those opposed?

Motion agreed to.

Mr. Chairman: That is not to say we will not deal with it, but I think we have a commitment.

Mr. Swart: The principle sounds good, but that is the way to kill it.

Mr. Chairman: I am not trying to do that.

Mr. Swart: Mr. Chairman, I am out of order but I feel I should have said in those remarks that this should be in to the minister very quickly. He is supposed to be starting the consideration of classifications very soon. If we had this now, today, to our researchers, they could start working on that report, but if we postpone it, will never be there when we need it.

1040

Mr. Chairman: We are going to proceed. We have a number of amendments before us, and I am going to suggest that--

Ms. Poole: If I might make a procedural suggestion, I see that we have amendments from both the government and the New Democratic Party before us. It might assist us in the course of the hearings if we were to number those at this stage to avoid confusion at a later date. I wonder if that is a possibility.

Mr. Chairman: Part of the difficulty that arises is that if we have other amendments that come forward during the course of clause-by-clause, it might create some difficulty. The clerk has indicated that she would be prepared to put them in proper order. Is that a fair statement?

Clerk of the Committee: Yes, I can integrate them for you.

Mr. Keyes: The amendments from both sides at the same time under each clause?

Mr. Chairman: Yes, that is right.

Ms. Hart: The difficulty with what the clerk proposes is that if there is anything new, it is very difficult to follow. Perhaps I am interpreting a bit what Ms. Poole has said, but it is not numbering the amendments, it is numbering the pages we have now. Then if we have any additional pages, we can number them 2a, 2b, 2c. I speak from experience in this. Perhaps not in this bill, there are not so many amendments, but if that is the case, it is very difficult to follow.

Clerk of the Committee: You want them integrated as well as numbered?

Ms. Hart: Integration would help, yes.

Clerk of the Committee: All right.

Mr. Chairman: Could we do that at noon and start out? At the moment, I do not think it would be that difficult for us.

Section 1:

Mr. Chairman: I am going to suggest and I hope we can have unanimous consent that the definitions section be postponed until the end. It does not appear there will be any changes other than those presently represented by the government amendments, but if for some reason during the course of it someone felt disposed to place another amendment to the definitions section, we would be just defeating ourselves by passing it now.

Is there unanimous consent that we postpone the definitions section?

Agreed to.

Section 2:

Mr. Chairman: I note there are no amendments to section 2 of part I the bill. Shall section 2 carry?

Section 2 agreed to.

Mr. Keyes: Mr. Chairman, on a point of order: Our second amendment here is on section 1, talking about "industry-wide hearing." Is that not--

Mr. Chairman: No, that is the definitions section, Mr. Keyes. We have postponed that.

Mr. Keyes: Oh, that is the definitions as well. I am sorry.

Section 3:

Mr. Chairman: There are no amendments to subsection 3(1), am I right? Shall subsection 3(1) carry? Carried.

Now we have an NDP amendment, which perhaps you would like to read, Mr. Swart.

Mr. Swart moves that the following subsection be added to section 3 of the bill:

"(1a) At least one half of the members of the board shall be members of consumer associations or persons representative of the interests of consumers."

Mr. Swart: If I can just speak to that, I think that in a matter of such import to consumers, they should at least have equal representation on the board. I do not think there is anyone here who would argue that the insurance companies and the brokers and the others who are affiliated with the insurance company will not use all the clout that they have to get as many members as they can on that board, because that board becomes a pretty important board as far as they are concerned.

The consumers do not have, of course, the same kinds of organizations that have the same kind of clout as the insurance companies, or the same kind of organization to make their views known and known so strongly and to bring

so much pressure. I simply think, therefore, that we should have in this bill very clearly that the consumers who will be paying the \$3 billion, and more than that this year, should have equal representation with all of those who are on the side of the insurance company.

I want to point out that this is not unique in legislation in Ontario. There is a great variety in the kind of legislation that proposes boards. Some bills, in fact, do leave it entirely up to the Lieutenant Governor in Council, whom they name to the board, but many do not. For instance, the Public Service Superannuation Act provides that, "The members of the board shall be appointed by the Lieutenant Governor in Council, one of whom shall be a representative of the Civil Service Commission and one of whom shall be a representative of the Ontario Public Service Employees Union."

I point out that the new bill which is before the House now with regard to the Funeral Services Act also ensures that the public generally is going to have at least five out of 11 people on that board. I also point out that the Labour Relations Act states that, "The board shall be composed of a chairman, one or more vice-chairmen and as many members equal in number representative of employers and employees respectively as the Lieutenant Governor in Council considers proper". They have equal numbers there because they know of the interests of labour.

We have another one here, dispensing of specified drugs under the Ontario Drug Benefit Act. We have a board appointed there: "There may be established from time to time as provided under subsection (6) a fee negotiating committee to be composed of (a) three voting members appointed by the minister; (b) three voting members appointed by the association; and (c) a chairman, who shall not have a vote, to be appointed jointly by the minister and the association." So under the Health Disciplines Act, we have that equality.

Mr. Chairman: I wonder, Mr. Swart, if I could interrupt you for just one second. This may help you, I do not know, but I understand that if the matter is stood down, there may be some discussion among the critics and there may be a consensus arrived at. I hope I am not speaking out of turn. If that is the case, then rather than have you and others speak on it, we may be able to expedite and assist you in your very noble aim to do that.

Mr. Swart: I do not know how it is stood down. There has been no motion here to stand down this section at this time.

Mr. Chairman: That is fine.

Mr. Swart: Who is to say that it is stood down? This is before us clause by clause.

Mr. Chairman: I am simply trying to suggest to you that--

Mr. Swart: I do not understand what you mean when you say it has been stood down.

Mr. Chairman: I understand that there may be some consensus on that. That is what I am advised by Mr. Nixon at this point. If that is the case, all I am trying to do is to save your having to put forward your case at this time. If you wish to, go right ahead.

Mr. Swart: If there can be some consensus on this, I do not want to

object to that. We may be able to work something out, but I am not prepared to stand something down indefinitely. I am certainly not prepared, unless there is a motion from somebody here to stand this down, to just accept the chairman's statement that it is to be stood down. This is a democratic organization, and I think we have to operate that way.

Mr. Chairman: Go right ahead.

Mr. Swart: Perhaps I will just finish what I have to say on this. I am just about done. If somebody wants to move a motion that it be stood down to a later date, that is up to them.

I want also to point out that for the Police Complaints Board for Metropolitan Toronto, it is also stated that, "One third of the members of the panel shall be persons recommended by the council of the Municipality of Metropolitan Toronto..." and "One third of the members of the panel shall be persons, other than police officers...." I just suggest that there is real merit, in something of the magnitude of this issue, in ensuring that consumers have equal representation on this board.

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Mr. Chairman: Thank you, Mr. Swart. Mr. Keyes.

Mr. Keyes: As the amendment is framed, I would have to be opposed to it. I am not opposed to the sentiment expressed by Mr. Swart, but I would like to deal with a few of the issues that he has raised. He is saying that we should have half of the members as consumers. I think we have to remember that, in this case, every person is a consumer. Any person who is a driver in Ontario has a licence. We are looking at approximately six million people, whom we have been told are drivers. They are all consumers. What we really want are the interests of consumers generally, so that is everyone.

The examples Mr. Swart has referred to as reasons why we should specifically spell it out are not appropriate, in my submission, on the basis that they are so specific. When you talk about the Metropolitan Toronto Police Complaints Board, you are talking about a system that was set up to simply arbitrate or rule on decisions affecting 5,000 members of the Metropolitan Toronto Police, which is vastly different in number than six million drivers in Ontario. Therefore, they do get one third representation on that group.

If you want to look at the Ontario Labour Relations Board, that again is very specific to employers and employees. It has been 50-50 in the balance. If you want to look at the Public Service Superannuation Act, once again it is those people who distinctly work for the public service who have been asked to be represented on that.

This is a broader type of legislation. I do not think we could ever come up with the rationale of saying that half of the members must represent consumers because, as I said, all six million are consumers. I have forgotten the statistic. Mr. Swart will have it and can fill in my lack of knowledge in that regard, but the consumers' association that exists in Ontario represents, in actual fact, by membership, a fairly small percentage of the consumers of the province. I have forgotten what percentage it is but I did know at one time. Then, on the other half of it, how would you actually determine persons "representative of the interests of consumers"?

I know what Mr. Swart wants to get at and I do not disagree with him. He

does not want it laden with representatives of the insurance industry only, but I hope that, in the process that is currently employed in making appointments to boards and commissions, this strong recommendation that there be balance is what is important among the people who sit on it. Those who are of a business mind and those who are of the consumer mind would be part and parcel of that appointment.

But to try to spell it out means you are giving specific representation to a group which may represent a fairly small percentage. Even though they would claim to speak on behalf of all the consumers of Ontario, in actual fact, by association, they do not represent a very large proportion of them. The other point is I do not know how you would get them.

Those examples that were cited were for such specific acts and such specific easily defined groups that I do not find the amendment appropriate.

Mr. Chairman: OK.

Mr. Keyes: But, to reiterate, I do not object to the concept at all.

Ms. Hart: I too am in considerable sympathy with what Mr. Swart proposes but I see some difficulties. I wonder if it would be appropriate at this time to ask the parliamentary assistant if it has been considered that there be some mechanism to ensure that all interests are represented on this board and if there are some difficulties concomitant with the investigations.

Mr. J. B. Nixon: You may recall that, just shortly after announcing the six or seven initiatives in the area of auto insurance reform on April 23, Mr. Kwinter, the then minister, committed to public consultation with the various groups who may have an interest in the operation of the board, some of which, of course, were consumers' groups and other user groups, such as urban transit authorities, taxi groups, and so on.

To make a long story short, as the government, we have looked at your amendment, Mr. Swart. We have tried to work up several other amendments to accomplish the same end, all of which have definitional problems and logic problems. I ask you or urge you to consider having this stood down so that I can meet with you and the other critic so that we can work out something that is acceptable to all of us. I do not want to get into the details of the problems with our proposed amendments, which are not before you, or your proposed amendment, but I think we can work out something. I hope we do that in good faith and goodwill.

Ms. Hart: In the light of those comments, I might move that the section be stood down in order that discussions might take place and some sort of consensus be reached.

Mr. Chairman: I still have Mr. Hampton to speak. Perhaps I could investigate whether that is something we could do by consensus if it has not been--

Mr. Swart: Let us have some more debate on it.

Mr. Chairman: All right. Mr. Hampton.

Mr. Hampton: I have a real problem with some of the reasons that are being offered here for standing this down.

Mr. J. B. Nixon: You have not heard mine.

Mr. Hampton: I want to go through them because I think there are a considerable number of holes in them. It has been said that the Ontario Labour Relations Board cannot serve as sort of a model or that using it as an example is inappropriate. I think it would be wise for all the members of the committee to look back into the history of labour relations and see that initially, when you had so-called labour relations boards or industrial disputes boards that did not have an equal labour component on them, those boards quite quickly lost their whole aura of authority and their whole aura of being able to speak on the subject with any competence.

It is no accident now that if you look across the country, almost every labour relations board in the country calls for some element of labour representation. In many cases, it is one half. It is for that exact reason--to gear statistics, figures and issues. The same statistics, issues and figures can be interpreted so dramatically differently depending upon whether you come at it as a consumer or you come at it as someone from the industry or, in terms of labour relations, if you come at it as somebody who is a worker or someone who is an employer.

To say that labour relations cannot be used as somewhat of a model because labour relations only apply to a few seems to me to miss the point. In Ontario, if we want to look at the labour situation, except for the excluded categories--i.e., farm workers, domestics, etc., and we have a hard time legitimizing some of those today--almost everybody in the province could in some way conceptually come under the Labour Relations Act.

I say the same thing applies here in terms of auto insurance. To say that it is only unions and employers and that individuals are not involved in labour relations again misses the point. Individuals are certainly involved. Individual rights are involved. It is the same thing here with respect to consumers.

I admit there may be some difficulty in deciding whether the taxi association in Toronto or the taxi association in Ottawa ought to receive representation. It is not our job here to make that decision. There may be some difficulty in deciding if the association of wrecker operators in northern Ontario ought to have representation on this insurance board as representing consumers, but that real problem, in terms of what consumer groups ought to be here, should not in any way do away with the principle that consumers ought to be represented here.

Finally, I do not think we should let it go past this committee that it is only hoped that consumers get appropriate representation. I think we would be very much remiss in our duties if we let that go by as merely a hope. It seems to me we are talking about a very important board. It is going to have very important powers, not only in terms of determining individual rights but also in terms of financial and commercial impact. At this point, we ought to set out what the consumer representation ought to be.

Just to get back for a minute, in our hearings I think we saw very clearly how statisticians, actuaries and insurance executives can come to this committee and say: "These statistics represent one thing. This is what it represents to us." But we also saw how individual consumers would come and say: "This is how it impacted on me. This is what it did to me. I do not know about the holus-bolus of the insurance industry statistics, but this is how it impacted on me as a person. I have to sell my wrecker. I have to take my vehicles off the road."

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Therefore, I think we have to realize this cannot be allowed to become a board of statisticians, actuaries and accountants, even if we say: "These statisticians, these actuaries and these accountants do not really represent the insurance industry. They are from somewhere else."

I believe it is incumbent upon us to ensure consumer protection, a consumer understanding, that someone who understands the consumer point of view is on this board. The only appropriate way to handle that is to ensure that half of the people who are on the board in fact do come to the board with that kind of consumer understanding.

Mr. Keyes: I just think I should clarify that I did not say in that particular instance we should refuse to do so. While my name was not mentioned by Mr. Hampton, I think he was referring to my remarks and I think he misconstrued them.

Mr. Chairman: I do not want to cut you off, Mr. Keyes, but I have Mr. Kanter first and then you can respond.

Mr. Kanter: Like all members of the Liberal Party who have spoken, I have some sympathy with the principle but problems with the wording of the motion as it has been put, and in fact I would have to vote against it, which does not necessarily reflect my sympathy with the principle that Mr. Swart has put forward.

I do not agree with Mr. Hampton that the role of this very important board is just like that of the labour relations board. It has an important role, as I understand it, in determining classes and setting rates. It has an economic function where some expertise and familiarity with the industry would be helpful--not sufficient but very helpful. It is not like the labour relations board in a number of ways. The groups are not as clearly defined. It is not like a group of employees who want to form a union or who have signed membership cards, something like that, and an employer. The group of consumers is very large, very amorphous and, as someone has already said, it in fact includes everyone who drives a car in Ontario. So in that sense I think it is fundamentally different from the labour relations board.

Second, it is not the same kind of polarized situation, sort of zero sum game, you-get-a-union-or-you-do-not-get-a-union kind of situation. I think we have seen where in some cases, not in all, consumers and the insurance industry broadly agree. I think there was some broad agreement on more reliance on no-fault reducing the cost of insurance, that kind of thing. There may well be some areas where the interests of consumers, broadly speaking, and the interests of insurers, broadly speaking, are essentially the same or in the same direction. I do not think we are or should be dealing with a kind of polarized situation where all consumers are going to be on one side of the street or the decision and all insurers are necessarily going to be on the other.

In addition, with respect to the proportion, there may well be room for experts who are not directly connected with either the insurance industry or consumers to be on this board. It may be that there are other numerical solutions. Quite frankly, I am not sure that a numerical solution is absolutely essential. Clearly, I think we have to have regard for the interests of consumers, we have to have regard for the interests of insurers and we have to have regard for economic reality and actuarial records and statistics and things like that.

So I would certainly support Ms. Hart's motion that we stand this down with a view to trying to reach a consensus on an approach I think most of us have some sympathy for.

Mr. Chairman: Mr. Keyes, I interrupted you.

Mr. Keyes: I just wanted to make the point, since it goes on the record that Mr. Hampton referred to my making an unfair comparison, I am not saying it represents a few. I was talking about police force complaints and I specifically named them out and likewise.

Mr. Swart: I would just like to give what I think is an explanation and answer to some of the objections that have been raised. I want to point out very clearly that what this does is establish a principle. I suggest it is much better than a resolution which would say there shall be two representatives from the consumers' association and one from the taxi association. Let us make no mistake about it, what this resolution we have here does is leave up to the Lieutenant Governor in Council the determination on whether they are consumer representatives and what are the most important ones. All we are really having in the legislation is to establish a principle.

I have heard everyone here who has spoken so far say that in fact he agrees with that principle. Some may qualify it but they do agree with that principle. I remind you again, because I have not made it clear, that subsection 3(1) states, "The board shall be composed of such number of members as the Lieutenant Governor in Council may appoint." They determine who they are going to appoint. This just establishes that principle.

Mr. Keyes makes a point when he says that everybody is a consumer, but we all know here that there is a predominant interest. Anybody knows that if you appoint somebody from the insurance companies, he is a consumer himself, but his interest is predominantly for the insurance companies. I suggest the Lieutenant Governor in Council is competent to determine the appointment of people whose interests may predominantly be consumer versus those whose interest is predominantly that of the insurance industry.

I think it is a very sound principle. I also want to point out that the government has had all kinds of opportunity up to this time to have a different clause in here with regard to the composition of that board. If it wanted to, it could have had it. We have nothing before us today. We do not have any alternative before us today. It looks as though the government now simply wants, somehow or other, to recapture something it missed or something it did not want in there and not appear to be against consumer representation. Otherwise, there would have been something here regarding this.

Therefore, I am not prepared to have this tabled at this time. I think there was ample opportunity for the government to have had something here at this time.

Mr. Chairman: The only motion I have before me at the moment, Mr. Swart, is a motion of postponement. Do I read your statement to be that you are moving the question?

Mr. Swart: My understanding was that was not a motion of postponement; it was a motion that we--what is the wording that is used?

Mr. Keyes: Stand it down.

Mr. Swart: Yes, stand it down. I think it is redundant for me to move that the motion be put. You have a motion to stand this down. I think that procedural motion is in order. People can speak to it but I think it has to be put.

Mr. Chairman: Then you are not changing that motion. That is the motion we are voting on. It is the motion of standing it down.

Mr. Swart: I do not think there is any amendment appropriate to that motion.

Mr. Keyes: Just for clarification, if we put the motion down, give me your procedure to follow, Mr. Chairman. I would assume that when we reach something like this, rather than attempt to amend the wording that is here, but being still interested in reflecting the principle that is here, is that not the purpose of standing it down, so that in the interval of lunch or whatever we can come up with an agreement that might be more acceptable and still get the principle involved, or do you prefer and want amendments on the spot sort of thing?

If it is stood down, my understanding is that simply means it can be brought back at any time. Usually that is a time when there has been some agreement reached through discussion as to what might be a more appropriate amendment. I would just like to know your definition of standing a motion down in this committee.

Mr. Chairman: In the case of some of them, we have stood them down until the end of the bill, but in this case, I think the comments that have been made are that it is stood down until such time as an agreement may be reached or may not be reached, in which case we would then call it again and it would be voted on.

Mr. Keyes: I feel that is preferable. Rather than to vote opposing or supporting it, we should stand it down.

Mr. Chairman: Does that satisfy everybody's curiosity? We are going to vote on the motion by Ms. Hart to postpone it or stand it down.

All those in favour of standing it down?

All those opposed?

Motion agreed to.

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Mr. Keyes: My last point is a point of procedure. With the amendments here that are proposed by the New Democratic Party, not the government motions, are those amendments subject to any further amendments by other members of the committee or is the procedure that you never allow such?

Mr. Chairman: Yes.

Mr. Swart: They are subject to amendment. You can make an amendment to an amendment, but you cannot with a government motion.

Mr. Keyes: No, you cannot, but I have sat on these committees before, and some weird and wonderful procedures sometimes creep in.

Mr. Swart: I do not know whether that is a reflection on you or not, Mr. Chairman. I think I would resent that if I were you.

Mr. Keyes: I did not say on this committee. I said in certain committees.

Mr. Chairman: I am totally ignoring any asides. We will move on.

Mr. Keyes: I could make amendments to your amendments on the spot, that would save putting them down.

Mr. Chairman: I am inquiring of legislative counsel as to whether subsection 3(2) can be proceeded with, if we deal with the NDP amendment.

Legislative counsel indicates that it is separate and apart. There being no amendment to subsection 3(2), shall subsection 3(2) carry? Carried.

On section 4:

Mr. Chairman: Subsection 4(1) and subsection 4(2). There are no amendments to that section. Shall they carry?

Section 4 agreed to.

Ms. Poole: May I ask a question about subsection 4(1)? It says, "One half of the members of the board." Is there any problem if you have an uneven number on the board? Should that technically be a majority or is that a necessary consideration?

Mr. Chairman: We may be a little late to deal with that.

Mr. J. B. Nixon: I do not have a quick and easy answer other than one based on my research in corporate law when I was a lawyer. Either is acceptable.

Sections 5 to 10, inclusive, agreed to.

On section 11:

Mr. Chairman: There is an amendment to section 11. However, there are no amendments to subsections 11(1) through 11(4). Shall they carry? Carried.

We have an NDP amendment with reference to subsection 11(4a).

Could we have unanimous consent that that be postponed until we have dealt with section 14a since it is referable to 14a?

Mr. Swart: If we go back to it immediately after section 14a.

Mr. Chairman: Yes, we will. We have unanimous consent on that.

Mr. Swart: Just hold a moment on this, if you will. We have another which refers to clause 11(5)(a). These deal with the same issue. The government amendment, which is its next amendment, subsection 11(5).

Mr. Chairman: We do not have a copy of that, I do not believe.

Mr. Swart: The government motion?

Mr. Chairman: Are you talking about a government amendment?

Mr. Swart: I am talking about a government amendment that deals with basically the same principle and incorporates some of the same principles.

I may be out of order, but I am just speaking to this. What we propose in this amendment is that there will be--subsection 14(a) actually--a register set up where any groups or any individuals can notify that board that they want to be considered as parties to any general hearing.

If I can give the interpretation, the only difference is that the government amendment just does not have that register. Anybody can appear. But often unless there is some very substantial advertising, unless there is notification, these groups do not know about it. We would just like to simply see this register. That is really the only fundamental difference between what the government proposes and what we propose. I think, quite frankly, that ours does give more assurance that those people who want to be there will be there.

I do not know whether the government is prepared to accept it or not and the reason I raised it this time is, if they are prepared to accept ours, then we should probably deal with subsection 11(4a) at this time.

Mr. Chairman: The government amendment that you were speaking is which one?

Interjection: Subsection 11(5)

Mr. Chairman: Perhaps Mr. Nixon could respond to that at this time.

Mr. J. B. Nixon: I think you are correct, Mr. Swart, that they deal with a similar or the same principle. What the government amendment does is allow persons or groups to become parties to hearings. All that your amendment does is provide formal notice through a registry. Even if your motion was passed, you would still require the government amendment, because notice does not entitle you to participate. The government amendment entitles you to participate as a party.

The problem the government has with your amendment is simply that it is inflexible. Let me step back and explain. The board has the power to govern its own procedures and part of that governing power is the power to give notice. I think it is very realistic to expect that there will be wide notice of any hearings, particularly industry-wide hearings.

The problem with a registry is simply that it is inflexible and that industry-wide hearings, as opposed to company-specific hearings, may interest different people. If we are looking at six million insureds at a cost of 37 cents, we are looking at a couple of million dollars in notice, never mind the paper and the envelopes. We feel it is inappropriate to register all those people, first of all because, if they are interested, they will read the notice and participate in any event and seek to be a party. If they are not interested, we have a lot of what may be construed as junk mail going out and a heavy cost obligation on the board for no real purpose.

Mr. Chairman: I might add as well, Mr. Swart, we are probably going to ask unanimous consent to postpone the government's amendment as well, since it deals with section 24, until section 24 is dealt with. You may want to think about that in the meantime.

Mr. Swart: Maybe I could come back to that later today, if you wish to move on.

Mr. Chairman: Let me know if you want to come back to it when we deal with subsection 14(a) and we will deal with it. If not, if you want to wait until we deal with the government amendment at subsection 24, then let us know and we will give you a little more time to think about that as well. We might even have the lunch break to come to some accommodation on it.

I will ask that unanimous consent be given to stand down subsection 11(5) since it refers to section 24. Is there unanimous consent on that?

Agreed to.

Mr. Chairman: Again, the NDP amendment to clauses 12(1)(ba) and (bb) refers to section 24. Might we have unanimous consent that--

Mr. J. B. Nixon: What about subsection 11(6)?

Mr. Chairman: We do not have a subsection 11(6) in here.

Mr. J. B. Nixon: No, an amendment on it.

Mr. Chairman: Oh, I am sorry. Yes, I see what you are talking about. We are getting carried away here. Thank you very much. You can have my job if you like.

Mr. Keyes: He will take every crumb he can get.

Mr. Chairman: It would not have occurred to me. We postponed subsections 4 and 5. All right. Shall subsections 11(6) and 11(7) carry? Carried.

Section 12:

Mr. Chairman: There is no amendment to clauses 12(1)(a) and (b). Shall they carry? Carried.

All right. There is a New Democratic Party amendment to clauses 12(1)(ba) and (bb). Can we have unanimous consent that it be stood down until we deal with section 24 and Mr. Swart's amendment?

Clerk of the Committee: Section 24a as proposed in the NDP amendment.

Mr. Chairman: Section 24a, yes. Are you content with that, Mr. Swart?

Mr. Swart: Yes.

Mr. Chairman: OK. We have unanimous consent that it be stood down.

There are no further amendments on that section. Therefore, shall clauses 12(1)(c) through (g) and subsections 2, 3, 4, 5, 6, 7, 8, 10 and 11 carry? Carried.

Section 13:

Mr. Chairman: There are no amendments. Shall subsections 13(1) down to subsection 13(3) carry? Carried.

There is an amendment to section 13(4). It is a government amendment and it can be dealt with, I suppose. There is nothing--oh, I am sorry; that is a motion that it be struck for clarification purposes. We cannot just delete. We have to vote on the whole motion.

Mr. Swart: This is a new amendment, is it not? We did not have it in the original ones.

Mr. J. B. Nixon: It is. That is correct.

Mr. Swart: I think we should have a moment to look at it. I have not even had a chance to read it yet.

Mr. Chairman: Would you like a few minutes' adjournment?

Mr. Swart: If that is your wish.

Mr. Chairman: In fairness, we should have five minutes. We stand adjourned for five minutes, until 11:30.

The committee recessed at 11:24 a.m.

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Mr. Chairman: Back to the business of the day. Where did we leave off?

Clerk of the Committee: Subsection 13(4). I believe that is where we were.

Mr. Chairman: Oh, yes. Mr. Swart, have you had a chance to review the matter?

Mr. Swart: Yes, I have had a chance to review it and I am glad we did have a chance because I do have some concerns about it.

Mr. Chairman: Perhaps we could just get it on the floor and have it moved and then you can speak to it.

Mr. Swart: Yes.

Mr. Chairman: Ms. Hart moves that subsection 13(4) of the bill be struck out and the following substituted therefor:

"(4) Although a hearing has not begun or been completed, the board may make interim orders pending the final decision of a matter before it.

"(4a) Where, under subsection 4, the board makes an interim order that leads to an increase in a premium under a contract of automobile insurance, and the final order of the board leads to a decrease in the premium payable under the interim order, an insurer shall refund to its policyholder the amount of any premium overpayment retroactive to the day that the increase took effect under the interim order."

Perhaps Mr. Nixon could speak to that for the benefit of the other members, all inclusive, and then I will ask members to address it.

Mr. Swart: Yes, go ahead.

Mr. J. B. Nixon: I think the purpose is fairly straightforward. Particularly with an industry-wide rate hearing, with a large number of parties perhaps, the hearing could take quite some time. It may be that at some period during that lengthy hearing process, as an example, a particular company is facing solvency problems, which may be corroborated by the superintendent of insurance. They would come before the board and say: "We have this problem. We are asking for an interim order for an increase in a certain amount."

We think that is a good thing, particularly when we are dealing with things like solvency problems. We are also very concerned that this process not be abused and certainly that the consumer not bear the brunt of that abuse, so that the board has the power to authorize a refund in the case that the final order is less than the interim order and compel a refund of the difference between the final order and the interim order.

Mr. Swart: I recognize there may be occasions where it will be necessary to use the procedures which have been outlined by the parliamentary assistant. Having said that, I have real concerns about this proposal as written. This could mean that this bill gets passed on February 10, or whatever it is, February 12; there could immediately be an application to the board for a general upward revision of auto insurance rates; the board could give that without ever having heard any opposition to that increase in rates.

I am not prepared to see that happen. We have had commitments by the government about how this review board will hold rates down. I do not believe it, but we have been given those kind of commitments. I realize the problems with the time it will take with regard to classifications and getting all of these set up and the work that has to be done. Nevertheless, if there is going to be any general increase in rates, the opposition to those increases, the consumers of this province and others, should have a say. I would think this should come into place when section 20 comes into place, which means that after the whole classification system has been transferred to the rate review board, then I am prepared to have this policy become operative, perhaps with one or two other amendments to it, but I cannot accept it in the form it is in without moving an amendment.

Once again, we are in the position where, if we want to stand this amendment down, maybe some discussion might resolve this, I do not know. But at least until we deal with section 20, my amendment perhaps will not be in order in any event.

Mr. J. B. Nixon: I want to respond, because I think there may be a misunderstanding as to the intent of the amendments. The amendments deal only with interim orders in the case that a hearing is expected or in conduct. It does not deal with the situation you are referring to. It is an interim order pending a final order. It can always be adjusted and it would always be adjusted where there is a difference between the final order and the interim order.

Mr. Chairman: Does that change your position, Mr. Swart?

Mr. Swart: No, because I do not accept it. We are striking out subsection 4 and this says, "Although a hearing has not begun or been completed, the board may make interim orders pending the final decision of a matter before it." If there is an application by the insurance industry in April of this year, hypothetically, the board is not going to get fully operative until perhaps September or October. It may even be longer than that.

If an application is made to the board, then in fact it would have the authority to make an interim order for an increase without ever hearing the other side.

I have a lawyer on my right and he may disagree with me, but that is certainly my interpretation of this, that it would permit that. If not, I would be glad to hear from someone.

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Mr. J. B. Nixon: That is not what was contemplated.

Mr. Swart: I am not saying it was; I was saying it permits that.

Mr. J. B. Nixon: May I suggest something? Why do we not just take out the words, "although a hearing has not"? We can work something out. We can stand it down.

Mr. Chairman: It sounds as if we have unanimous consent to its being stood down.

Mr. J. B. Nixon: I understand what you are getting at. I am saying we can do it. Let us stand it down.

Mr. Keyes: I have a point of clarification.

Mr. Chairman: Mr. Hampton first.

Mr. Hampton: We have discussed it and I think we have two real problems. One, even though it may not be the intention, we are not looking at intention here. We are simply saying let us look at the clear words and look at what could be done with them. Even though the board may not be fully operative until some time next fall, it would be possible, under this section, to give an interim increase and a hearing would not come on it until perhaps nine months down the road. We think that sort of situation is not proper. It is one that ought to be avoided at all costs, and therefore Mr. Swart has an amendment, as he read it in, that this section could not be used until the board is fully operative and the rate classification systems and everything are in place.

We have another problem with that wording, "although a hearing has not begun." Again, that leaves itself open to a situation where a hearing has not begun, an interim order is given, and it is too many months down the road before you actually get a hearing.

Mr. J. B. Nixon: I suggest we stand it down and discuss it.

Mr. Swart: I would agree that we stand it down. The parliamentary assistant and the staff can work on it and we can bring it back again.

Mr. Chairman: Mr. Keyes, do you still need clarification?

Mr. Keyes: It was just for clarification. It was my understanding, just from reading it, that this was not to take effect until such time as the whole board was operative and rolling. That is why I felt, if that was the understanding, it met one of the objections Mr. Swart had. I realize that what he is trying to get at is to prevent any increases before the thing gets rolling, which I would suggest--I do not know if it is a legal question, but

it probably is--is not within the scope of what this committee is studying within Bill 2. Until it gets fully rolling, I would think the government still has the opportunity to make the same type of allowances it has already made in the past year.

Mr. Swart: May I just add to that? If they do have the authority to make any increases after the bill is passed, before it is fully in operation, I want to be sure that the groups that may be in opposition to those increases are heard. That is simply my intent. I am agreeing to stand it down.

Mr. Chairman: Is there unanimous consent that it be stood down?

Agreed to.

Mr. Swart: There are some negotiations and some work that are going to have to go on at noon. May I suggest that we adjourn now? We have stood a number down. We could take a look at these, so perhaps when we come back this afternoon we can at least know the exact parameters and whether we have come to an agreement or have not come to an agreement.

Mr. Chairman: Can we finish section 13 since there is no further amendment, other than the one we have stood down? We can do subsections 5 through 7 and then accept what you have said and adjourn until two.

Shall subsections 13(5) through 13(7) carry? Carried.

It is the agreement of the committee that we adjourn now and come back at two o'clock? Agreed.

The committee recessed at 11:45 a.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ONTARIO AUTOMOBILE INSURANCE BOARD ACT

TUESDAY, FEBRUARY 2, 1988

Afternoon Sitting

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)
VICE-CHAIRMAN: Hart, Christine E. (York East L)
Chiarelli, Robert (Ottawa West L)
Cureatz, Sam L. (Durham East PC)
Farnan, Michael (Cambridge NDP)
Hampton, Howard (Rainy River NDP)
Kanter, Ron (St. Andrew-St. Patrick L)
Keyes, Kenneth A. (Kingston and The Islands L)
Poole, Dianne (Eglinton L)
Sola, John (Mississauga East L)
Sterling, Norman W. (Carleton PC)

Substitutions:

Furlong, Allan W. (Durham Centre L) for Mr. Chiarelli
Runciman, Robert W. (Leeds-Grenville PC) for Mr. Sterling
Swart, Mel (Welland-Thorold NDP) for Mr. Farnan

Clerk: Mellor, Lynn

Staff:

Swift, Susan, Research Officer, Legislative Research Service
Revell, Donald L., Legislative Counsel

Witnesses:

From the Ministry of Financial Institutions:

Nixon, J. Bradford, Parliamentary Assistant to the Minister of Financial
Institutions (York Mills L)
Parrish, Colleen, Director, Policy and Planning Branch

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, February 2, 1988

The committee resumed at 2:08 p.m. in committee room 1.

ONTARIO AUTOMOBILE INSURANCE BOARD ACT
(continued)

Consideration of Bill 2, An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates.

On section 13:

Mr. Chairman: We will resume. When we last met here, we were at subsection 13(4) and there was to be some discussion. You now have before you an amendment by the government as well as the--I am sorry, that should come out totally.

Ms. Hart: What should?

Mr. Chairman: That one there. That is replaced by this. I have thrown it under the table.

Ms. Hart: OK.

Mr. Chairman: We are at subsection 13(4). It was formerly page 8. It is now a new page 8.

Clerk of the Committee: Except that that one had been moved. That had been moved and had to be withdrawn. The new one will have to be moved, so Ms. Hart will have to withdraw subsection 13(4) and move the new one.

Mr. Chairman: Ms. Hart, would you act accordingly?

Ms. Hart: Yes, Mr. Chairman. I am withdrawing subsection 13(4) as previously read and substituting therefor the following:

Mr. Chairman: Ms. Hart moves that subsection 13(4) of the bill be struck out and the following substituted therefor:

"(4) The board may make interim orders pending the final decision of a matter before it, but no interim order shall be made that leads to an increase in a premium under a contract of automobile insurance unless the hearing on the matter has commenced.

"(4a) Where, under subsection (4), the board makes an interim order that leads to an increase in a premium under a contract of automobile insurance, and the final order of the board leads to a decrease in the premium payable under the interim order, an insurer shall refund to its policyholder the amount of any premium overpayment retroactive to the day that the increase took effect under the interim order."

Mr. Cureatz: Did you stay awake all night to draft that amendment?

Ms. Hart: Absolutely, Mr. Cureatz.

Mr. Chairman: Any speakers on that matter? Seeing none--oh, Mr. Swart.

Mr. Swart: We had some discussion on this. It certainly changes the original amendment to some degree. But to me, it does not go far enough. I think that before any increase of any kind takes place, especially under the circumstances leading up to the present time, there has to be a full and complete hearing.

I am convinced that this does not provide for that full and complete hearing. A hearing can commence, it can be adjourned very quickly and the board then can make its interim order. I would sooner leave the responsibility with the government, quite frankly, to make that decision on its own, than have a hearing which is not a full and complete hearing and where those who are opposed to it may or may not have an opportunity to make their full representation.

Mr. Chairman: Are there any further speakers on it before Mr. Nixon wants to respond?

Mr. J. B. Nixon: I would just like to make the point that I believe Mr. Swart's concern is fully satisfied by the provisions of the Statutory Powers Procedure Act, which governs the conduct of this board and, in particular, would provide that any party to the hearing has a right to be heard. Given that provision, I think Mr. Swart's concern is fully answered.

Mr. Chairman: All right. We are ready to vote on that then. Shall subsections 13(4) and 13(4a) be carried? All those in favour? Those opposed? Carried.

There are no amendments to subsections 13(5) through 13(7), so shall subsections 13(5) through 13(7) be carried?

Clerk of the Committee: We did that already.

Mr. Chairman: Did we do that already? All right. Shall section 13, as amended, carry?

Mr. Swart: I do not think we did it in order.

Clerk of the Committee: No we did not. I am sorry. We debated about it.

Mr. Chairman: I was sure we had not voted on that.

OK. There is a NDP--

Mr. Swart: Just as a point of order, for no reason except that it would be more orderly, I suggest perhaps we should go back to section 3 and then we can work our way up again. I think we can deal with all of those matters now. We may not come to an agreement, but I think we know we can deal with all of those now.

Mr. Chairman: You want to go back to section 3 and work the ones we have not done thus far.

Mr. Swart: That is what I want to do.

Mr. Chairman: All right. Is there consensus on that? Some of them deal with section 24, which we were going to delay.

Interjection.

Mr. Chairman: There was one that Mr. Swart had that should be dealt with once we have reached section 14.

Mr. Keyes: All right.

Mr. Chairman: Is that what are you asking for?

Mr. Swart: First, I was right back to section 3. That was the only one we jumped over, except the definition. I wanted to go back there and move the motion which I originally moved this morning. I believe I moved it.

Mr. Chairman: Subsection 3(1a).

Mr. Swart: Yes.

On section 3:

Mr. Chairman: Mr. Swart moves that the following subsection be added to section 3 of the bill:

"(1a) At least one half of the members of the board shall be members of consumers' associations or persons representative of the interests of consumers."

Mr. Swart: In moving this, I am not going to speak to it at length, because I did speak to it this morning. As we know, there is another motion here, which I assume will be moved if this is defeated, which states, "The members of the board shall be representative of insureds, the insurance industry and the public."

I cannot accept the alternative and suggest that the one I have moved is substantially preferable because there is a real principle that we establish here. The principle is that on that board at least one half of the members should be representative, generally, of consumers. That would be their prime interest. There can be a great variety of consumers; I realize that. Nevertheless, it is a principle that I think is sound.

I want to point out that it leaves the discretion of that determination up to the Lieutenant Governor in Council. He can determine what he considers to be a consumer. I already said there is a great variety of consumers, but it does establish that principle, which I think is sound in a bill like this. My colleague mentioned before when we were debating this that you never got that fairness in these various boards until you had that kind of representation. He mentioned the Ontario Labour Relations Board.

I know very well that if you get a board which is composed of the majority from the industry, you are going to get a slanted decision. This is particularly true--and I have attended many of these board hearings--when the submissions which are made are primarily from the industry section itself. It does not matter whether it is a hearing with regard to Consumers' Gas Co. and

the rates that it should pay or whether it is Bell Canada. The representation there of those who are opposed to it, for some very real reasons, is never as strong or as comprehensive as that of those who are promoting the increases.

If you do not have a board that itself is composed equally of both sides on this issue and if you do not have a board that insists on in-depth investigation, you get results which are slanted towards the industry. As I have already said, our proposal does not tie the hands of the ministry; it establishes a principle.

It is a very different principle from what is being established and proposed by the government. Our principle is that in a matter of this magnitude where the public out there--and there is not a member of this committee who does not know it--has been harassed and exploited--and I use that term advisably--over the last number of years by the insurance industry, it is absolutely essential that we have a board that will represent the consumers and motorists of this province as surely as the other side will represent the industry.

Mr. Chairman: I have Mr. Hampton. I am sorry. Mr. Kanter, did you have your hand up as well?

Mr. Kanter: No.

1420

Mr. Hampton: I wanted to look at the two proposed amendments. The amendment which the government has now put forward, "The members of the board shall be representative of insureds--

Mr. Chairman: It is not on the floor.

Mr. Hampton: All right. It is solely for greater clarity of the amendment Mr. Swart has proposed, because I think by comparing the two you do come out with some greater clarity on what can be accomplished with them.

Mr. Chairman: The only difficulty I have with that is that if you address it at this point, we get a little mixed up because at some point we are going to--

Mr. Hampton: OK.

Mr. Chairman: I suppose in fairness--

Mr. Swart: On a point of order.

Mr. Chairman: All right, go ahead.

Mr. Swart: I just make this point of order. I agree that has not yet been tabled, but for a member to be arguing a motion before you, as I was and as he proposes, you surely can refer to alternatives. That is what he is doing, to make the point on his own.

Mr. Chairman: All right, you can go ahead.

Mr. Hampton: It seems to me that on the amendment Mr. Swart has proposed, which says that at least one half of the members of the board shall

be members of consumers' associations or persons representative of the interests of consumers, all that requires is that the Lieutenant Governor in Council, when making the appointments, approach the various consumer agencies or agencies that are representative of consumers in respect of this sort of thing and vet the people that the Lieutenant Governor in Council proposes to appoint.

It would leave it open for the Lieutenant Governor in Council to approach an economist at the University of Toronto and say: "You have written on these issues. You are very knowledgeable about them. Would you consider it?" Then he would approach various consumer associations and say: "We propose to appoint this person. He is not active on behalf of the Consumers' Association of Canada and he is not a member of the Ontario Trucking Association, but he or she is very capable and very knowledgeable in this area. Would you accept this person as someone representative of consumers?"

It allows the Lieutenant Governor in Council all kinds of leeway, but it ensures that one half of the people who are appointed to this board are people who are acceptable to consumers. In our view, that is a very important point. If this board is to have any claim to legitimacy, we believe that principle has to be embodied in the act and acted upon. To merely say, as may be proposed in the future, that "the members of the board shall be representative of insureds, the insurance industry and the public" does not impose upon the Lieutenant Governor in Council to vet necessarily who the members of the public may be.

You can wind up with a situation where the Lieutenant Governor in Council proposes to appoint an academic or an economist from somewhere to the board, feeling that the person is a neutral party or a party whose views will be respected by consumers, that consumers would accept him as being knowledgeable on the issue but not being identified with the insurance industry, and right away I think you have lost the faith of consumers. To ensure you have the faith of consumers, we believe Mr. Swart's amendment speaks to that situation. It is only incumbent upon the Lieutenant Governor in Council to vet the appointments with various consumer groups. In doing that, you have a claim of legitimacy.

Mr. Keyes: I am still speaking against the motion as put forward. Still, I am accepting a principle that we want to be sure the public is well represented in there. That is why, while the other one is not before us, I am just making some comparisons. In my opinion, the other one actually gives a potentially even broader representation to the general public than this one.

One of the other benefits was that we have talked specifically about three groups in the government amendment, that is, the insureds, those who actually buy the insurance, which is important; the insurance industry, which is providing it; and then we talk about the public. I think that is a very important aspect, because otherwise we are theoretically talking about those who purchase insurance only. There are some members of the public who will never purchase insurance but are certainly interested in what protection they, as members of the general public, have as against someone who will do them harm in the future.

I would have said that the government's bill should have been a little more specific. It is semantics, but if we added the words "equally representative" where we say, "Members of the board shall be representative of..." if we said "equally representative of insureds, the insurance industry and the public" in theory we would have two thirds of it on behalf of the

consuming public, namely, the public and the insureds, and the insurance industry would be limited to one third. That might have obtained what the NDP wants in an amendment and still be in keeping with the concept proposed in the government's amendment.

Mr. Kanter: With respect to the amendment proposed by Mr. Swart, I was concerned about it when he moved it, but I am much more concerned after I heard the interpretation of Mr. Hampton. He seems to be suggesting that the consumers' association--I think that was the example he used--has a kind of veto over this representative. I do not think that would be helpful at all. I have certainly seen voluntary associations which have divisions within their ranks; sometimes there are divisions within the national and provincial and local associations. I can think of the Canadian Cancer Society where that has happened and the Humane Society where that has happened, just to give you a couple of examples.

I am very concerned that the effect, perhaps unintended, would be to hold up for a long time the appointment and the operation of this board, possibly to hold up the subsequent operation of the board if some one member was forced to resign or was ill or died or something like that. I am very concerned that the effect could be the opposite of that which I think the members are really seeking, which is a board that is in operation quickly and which does represent the public.

I agree with Mr. Keyes. I think the opportunity for public representation is greater under the government's proposed motion. Finally, I would point out that the Ontario Labour Relations Board, the very model that has been picked, has equal representation from employers, from labourers and the public as a neutral third party acting as vice-chairman of the labour relations board decisions. For all of those reasons, I think we should not support the motion put forward by Mr. Swart.

Mr. Hampton: For clarification, I wanted to point out that, in practice, the way a lot of representative boards work is that government will go to the client groups and say, "Can you suggest names for us that you would find acceptable?" That process is used often and it seems to work well. I accept the fact that it may sometimes lead to complications, but I do not think it is always going to lead to complications, I do not think it is going to tie up unduly the initial selection of this kind of board.

Mr. Chairman: Mr. Cureatz, did you have your hand up?

Mr. Cureatz: No, I did not, but Mr. Runciman is anxious to get into the debate.

Mr. Swart: To sum up, and perhaps I am repeating, the real difference we have before us on the two items is that one establishes the principle that consumers on that board will be a powerful force by having half the representation, people representing consumers, but that determination is left with the minister. To put it another way and an accurate way, our proposal, our amendment, the amendment you are going to be voting on in a moment, says it can simply be tokenism; no question about it, it is up to the board.

There is no question, either, that when the classification committee sat, consumers had very little representation on that and are very unhappy with the outcome of the recommendations, particularly with regard to the females. We know that from the consumers' association.

1430

I think that in a matter like this, which means so much to consumers of this province, and it is not a small item, where they are the ones who have been hurt over the last few years, we should give them a very major say and ensure by legislation that they have a major say in the determination of the policy and of the rates.

Mr. J. B. Nixon: I would like to remind members that shortly after the April 23 announcement, Mr. Kwinter, the then minister, committed to consultation with a large variety of groups, including consumer groups, so the consultation that Mr. Hampton wants and suggests that some governments do is one that this government is engaged in.

I would also like to suggest that the problem we have, I think, with Mr. Swart's amendment has been well highlighted by Mr. Kanter and Mr. Keyes. I will not go any farther, because I do want to speak to our proposed amendment.

Mr. Chairman: Are we ready to vote on the NDP amendment which has been moved by Mr. Swart? Shall subsection 3(1a), as proposed by Mr. Swart, be carried? Those in favour? Those opposed?

Motion negatived.

Mr. Chairman: There is a government amendment.

Ms. Hart moves that the following subsection be added to section 3 of the bill:

"(1a) The members of the board shall be representative of insureds, the insurance industry and the public."

Are there any members who wish to speak on it? I think we have had some discussion on it already.

Mr. Swart: I just want to point out, and even Mr. Keyes raised this point, that we can have one representative of consumers on there of the six million motorists in this province. It is tokenism, just the same as we have had tokenism on so many other boards with regard to consumer representation. I cannot support that kind of a motion.

Ms. Hart: I speak with some experience on the subject of tokenism, and I would like to say very strongly that this section does not and cannot, on its face, be tokenism. What is said is that the board shall be representative. That does not mean one consumer, and it can never mean that in any court in this province.

I think the government has struck a balance. It has recognized that there is a need to have a balanced representation on this board. These are serious matters that the board will be considering. They are matters that are important to the public but they are also important to the industry, and that balance should be struck.

I disagree strongly with Mr. Swart that his proposal is one that would be the only effective manner in which consumers and the public have representation on the board. Frankly, having appeared before most boards in this province, I think it is very important that there be flexibility, that

you not be tied to numbers. Then you get involved in procedural wrangles that end up in courts. This government's record in appointing people from all backgrounds and all the people who should have a say in what is going on before a board is exemplary.

Mr. J. B. Nixon: Just a couple of supplementary comments. I think Ms. Hart made some excellent points, but this type of phrasing is not new to legislation before the government. The Workers' Compensation Board has the same type of phrasing in describing its composition. Members of the public, as you may well know, may have interests opposed to both insureds and the insurance industry, which just means that we have to have that third group represented. From that group obviously we can draw on people like lawyers, actuaries, accountants or university professors.

Finally, the purpose of the rate board, unlike the purpose of the Ontario Labour Relations Board, which my friend Mr. Swart cites and Mr. Hampton cites, is to regulate relationships and to regulate an industry, whereas the labour relations board is to arbitrate and regulate relations between specific individuals who have a grievance. That is not the case here, no matter how much you may want to rhetorically make that analogy. It does not hold. It is not class warfare as it is in the labour industry.

Mr. Chairman: Okay. Are we ready to vote, committee members?

Mr. Hampton: I just want to make one further comment on this. To reiterate what we said already, we find this proposed wording or this proposed amendment to be too loose. We believe that, inherently, the way it is worded, "representative of insureds," may in itself be very difficult to get a handle on and it may be very difficult for associations that claim to represent insureds to agree with some people who may eventually be appointed to the board under that category or to have faith in people who may be eventually appointed to the board in that category.

Finally, we find the term "public" difficult to define in this context. It is our position that, where you have a good meeting of the minds passed between people who are knowledgeable about these things from the consumer interest and people who are supposedly knowledgeable about it from the industry interest, the public interest will indeed be served. For all those reasons we find the wording of this motion to be too loose. It may, in the end, cause a great deal more trouble than the wording that we had proposed previously.

Mr. Chairman: Shall section 3(1a) as proposed by Ms. Hart carry?

All those in favour?

All those opposed?

Motion agreed to.

Mr. Chairman: Mr. Swart, you had one other but it should follow 14(1a). I think you have an amendment for it?

Mr. Swart: I am going to suggest a way of dealing with this and you will know as soon as I say it that I have no ulterior motives in it, but the minister had proposed a subsection 11(5) and he proposes an addition to that. We have no difficulty and if we wanted to get that moved at this time and passed, then we could deal with our registration afterwards.

On section 11:

Mr. Chairman: Perhaps Ms. Hart would move subsection 11(5a).

Ms. Hart moves that subsection 11(5) of the bill be struck out and the following substituted therefor:

"(5) The parties and proceedings before the board are,

"(a) in the case of a review under subsection 24(2), the Facility Association and such other persons as give the board written notice of their intention to participate as parties; and

"(b) in any other case, the applicant, if any, and such other persons as give the board written notice of their intention to participate as parties."

Any debate on that?

1440

Mr. Swart: This deals with the matter of standing at the board hearings. We certainly have no objection to this, although we believe, and will be moving, that there should be a registry so that people are notified. The facts are we believe that anybody who asks to have standing should have standing. This section accomplishes that and therefore we support it.

The only suggestion I might have to make is a very technical one. I am wondering if clause 11(5)(a) should not just read "in the case of a review under section 24," rather than subsection 24(2). At least, it is proposed that section 24 be amended. That deals with the whole matter of review of the facility. I am not sure subsection 2 exactly covers everything we want to say. Obviously, I do not feel strongly about that. If our legal counsel feels it better to leave it to subsection 2, I am prepared to do it.

Mr. Revell: I have to advise at the present moment that I cannot remember whether that was a technical drafting reason or whether that was a substantive reason that was an instruction from the ministry. I would have to consider it.

Mr. J. B. Nixon: We are just considering it.

Mr. Chairman: We will just sit and wait. It is your time.

Mr. Swart: I would point out--perhaps it may be helpful--that there is a major amendment by the government to replace section 24 with a much more comprehensive section. I will say right now we do not object to that new amendment; we will be supporting that new amendment.

Mr. Chairman: Mr. Swart, we can save you a lot a time. I think Mr. Nixon is--

Mr. J. B. Nixon: We can agree by unanimous consent to amend that just as such. I do not how the procedure is done, but it should be section 24, not subsection 24(2).

Mr. Chairman: Do we have unanimous consent to strike out the "(2)" then?

Agreed to.

Mr. Chairman: All right. Can we consider it as read or do you wish to move it?

Ms. Hart: It is OK.

Mr. Chairman: We can consider it as read then, with that amendment, by unanimous consent.

Shall subsection 11(5), as read by Ms. Hart and as amended by unanimous consent, carry? Carried.

Clerk of the Committee: Was that unanimous?

Mr. Chairman: The clerk asked if there was unanimous support for that. I did not call for a division. Was it unanimous? Perhaps I should call a vote. Those in favour? Those opposed? There was not. OK.

Mr. Chairman: Ms. Hart moves that the following subsection be added to section 11 of the bill:

"(5a) Where an unincorporated association gives written notice of its intention to participate as a party to a proceeding before the board, it shall thereafter be deemed to be a person for the purposes of the proceeding and it may be a party in its own name."

Are there any members who wish to speak to that amendment?

Mr. Swart: This amendment is similar to what we had proposed and moves it from one section to the other, so we will be supporting it.

Mr. Chairman: Mr. Nixon, did you have any comment?

Mr. J. B. Nixon: I was just going to make the point that there are a certain number of unincorporated associations that would be entitled to be parties without this provision--and that is by virtue of the Statutory Powers Procedure Act--some of them being labour unions, etc. What this does is cover off things like the Toronto taxicab brokerage group, or whatever.

Mr. Chairman: OK. Ready to vote? Shall subsection 11(5a), as moved by Ms. Hart, carry? Those in favour? Those opposed? Carried.

The next item, I believe, Mr. Swart, is to deal with your amendment, section 14a, which is on page 9 of the book. Then we will go back and deal with the one that we postponed, which was clause 11(4)(a).

Mr. Swart: Right.

On section 14:

Mr. Chairman: Would either you or Mr. Hampton like to introduce that motion?

Mr. Swart moves that the following section be added to the bill:

"14a. (1) The board shall establish a registry of persons to whom notice of its hearings shall be given under subsection 11(4a).

"(2) Any person who makes a request to the board shall be included in the registry mentioned in subsection (1)."

Mr. Swart: Subsection 3 that you have is no longer necessary because that is what we just approved in the other section of the bill. I would move that and, in speaking to this, I would say that we move this so that there is further assurance that those people who want to appear--and I am talking about people who may not be in the insurance industry and have such a vested interest--would be conscious of the hearings that are taking place.

There is no question that many people will not read notices that are in the paper, even organizations, especially volunteer organizations that sometimes do not have full-time staff. Sometimes they do not have any staff. They may want to make a representation. I can think of such organizations as the Consumers Fight Back group, which is centred in the Port Colborne area. They have no full-time staff. Unless you make very large advertisements or notify them in some other way, they will not know about the hearings. They can make a very valuable contribution to the hearings, as has been pointed out in the issue of natural gas. They appeared just recently before the Ontario Energy Board. They had been notified by that board because they had been there before.

What we are proposing here is a simple registration system where people who wish to be notified of hearings shall be notified of hearings so they know about them. Then they can make application to take part, if they so wish, in those hearings and they are not omitted.

I suggest to you that anybody who has appeared before these hearings knows the disadvantage at which the public generally is when it does not have the staff. I have appeared myself before the Ontario Energy Board, found that it has had 20 of its people there, some of them there full-time, and two lawyers in attendance full-time. Those who were opposing it were perhaps there for two or three days. The Consumers' Association of Canada opposed it. They had somebody there for only a quarter of the length of time of the hearing.

Surely what our intention must be is that anybody who wishes to make representation at a hearing should be able to do so. I may be wrong, but I understand the only objection that the ministry has to this is that they may have to send out hundreds or thousands of notices to people that hearings are going to be held. I suggest that is not the pattern at all. Individuals are not going to be writing in and saying, "I want to be put on the mailing list and notified of every hearing."

I suggest to this committee that the disadvantages of not notifying everybody who might want to appear at a hearing is much greater than the disadvantage of having to send out perhaps a hundred notices or so relative to a hearing.

I want to go even a bit further and compromise. I suggest that if somebody wants to move an amendment that, in the case of those which are not industry-wide hearings, the board could use its discretion on who it would notify because there can be all kinds of hearings which may be one-industry only. A lot of people may not be interested. I would be willing to accept that

kind of amendment, but I think the principle that people who want to be heard should have the full opportunity of being heard and that the notification just does not go by them, as it does the majority of people. That is the purpose of this amendment.

1450

Mr. Hampton: I want to add further to what Mr. Swart has said. We see section 14a speaking to the question of notice. There was some comment made earlier in the day that really what we were after in section 14a was being addressed in subsection 11(5), which we have just dealt with, but I think subsection 11(5) deals with who can be a party, who has standing to appear. But preliminary to who has standing, I think there is a very important question.

In this complicated society we live in, where many people are very busy, where not everyone belongs to an organized group, there may be individuals or loosely associated organizations that really want notice. Then they may decide, "We do not want to be a party but we want notice of this." We think that in the administrative law process, notice is a very important part of what goes on. We believe it speaks to that important principle, that people who want notice or who generally feel they want notice of this thing should have a mechanism whereby they automatically receive notice.

Just by way of example, I want to cite to you something that is going on right now and that I think is going to cause the government some problems. We have a class environmental assessment going on in northern Ontario in terms of forest management agreements. No doubt all of the large forestry companies have received notice, but many independent loggers, independent wildlife guides, independent trappers and independent fishermen who do not belong to a well-organized outfit have not received adequate notice. They found out about it by word of mouth. In many cases, it was too late for them when they did find out about it, and they feel their rights have been prejudiced. They are quite angry about it.

We are suggesting that this sort of registry would speak to that problem so that adequate notice is provided to those people who feel they want to be notified about these kinds of things. Then if they wish to move for standing, if they wish to apply for standing and be a party, they can do that. But we think notice is an important element that comes before standing.

Mr. J. B. Nixon: In one sense, I agree with both Mr. Hampton and Mr. Swart. Mr. Hampton tells us that in the administrative law context notice is very important. Mr. Swart cites, I believe, the natural gas case in southwestern Ontario where notice was at issue. It was the feeling of the courts that the board had not given proper notice and they ordered the board to start its hearing all over again and give proper notice to all the parties involved.

In our courts and in our Legislature, notice has always been dealt with by virtue of statute and by virtue of judicial lawmaking. I refer you to clause 12(1)(a) of the bill, as proposed, the board "makes rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it"; subsection 11(2), "The board shall give adequate public notice of its hearings to the public"; and clause 12(1)(b), the board shall "determine, with respect to any particular hearing, what constitutes adequate public notice."

Clearly, with all those provisions dealing with adequate public notice, if there is an aggrieved party to a decision, he has the right to proceed to the courts on that procedural problem and have it dealt with. Believe me, after that southwestern gas decision, I think every board is going to be very aware of what adequate public notice means, particularly if it means stopping the hearing and then starting all over again with notice as dictated by the courts.

I have more problems than just the matter of cost, but the matter of cost is significant, because if you register all six million car owners or insurance policy owners, the stamps alone, as I said, are 37 cents each. In fact there is more cost associated with it--the computer records, the processing. But that is the cost. There may be many cases where notice, to anyone's mind, is not required to all those people but to some people, and then the board has to make the decision which of those people, who among those people, and then it is back into its statutory mandate of determining what adequate public notice is.

We believe the appointees to the board will be reasonable, wise, prudent people and that they can determine on their own what is adequate public notice without the shackles of the Legislature saying, "In the case where you can't make up your mind or whatever, it has to be all six million." The important element behind our position is that the board have flexibility in determining what adequate public notice is, and it will be guided by court decisions and court review.

Mr. Chairman: OK. Are we ready to vote then? Yes, Mr. Swart.

Mr. Swart: I do want to reply to that. You mention, Mr. Nixon, that it required them to give adequate notice to the parties involved in the case of the gas company--

Mr. J. B. Nixon: Adequate notice to the public who may have an interest in that.

Mr. Swart: You actually used the words "parties involved," as Hansard will show.

Mr. J. B. Nixon: I am sorry. I may have made a slip, Mr. Swart, but that is not what I intended.

Mr. Swart: How do we know who the parties involved are? It is patently true that the majority, the great bulk of the people, do not read the ads in the paper--the people who are heads of organizations and the people who have had concerns. I know that and anybody who has been in municipal life knows that. With regard to the Ontario Municipal Board hearings, unless it affects them, how many ever bother, right in their area, to get involved unless somebody goes after them to do it?

Mr. J. B. Nixon: Lots.

Mr. Swart: I just think this is part of the whole structure which should be built into this bill to ensure that the public has its voice at these hearings as strongly as the insurance industry has its.

Mr. Chairman: OK. Are we ready to vote on section 14a as proposed by Mr. Swart?

Those in favour--

Interjection.

Mr. Chairman: I am sorry, are you voting?

Mr. Hampton: I just wanted to make one further comment, if I could, very briefly. It is in part a response to what Mr. Nixon has pointed out.

If you look at subsection 11(1) of the act and then follow from that subsection 11(2), "The board shall give adequate public notice of its hearings to the public," it is a very general way of putting it. But then I look at subsection 3, "The board shall give notice of an industry-wide hearing to every insurer." It is very specific. Every insurer shall receive notice.

Really, that is what we are asking for here, that a registry be set up so that groups or organizations which are likely to be interested--as interested as an insurer--shall also receive specific notice. It goes no farther than being the opposite side of the coin of subsection 11(3), "The board shall give notice of every industry-wide hearing to every insurer." Likewise, if you have a registry, everyone who is possibly interested in a hearing shall receive notice.

As Mr. Swart said, we are willing to compromise on this. If you want to put in an additional clause which perhaps gives the board some discretion to narrow down the registry in certain cases, that is fine, but we feel that if every insurer is going to receive notice in certain circumstances, then certainly there ought to be a mechanism whereby those people who are on the other side of the coin also shall receive notice.

Ms. Hart: Very briefly, subsection 11(2) of the bill, which we have passed already, ensures there is adequate public notice and public notice includes insureds. That includes everyone. I think it is difficult to argue that that does not give notice to the other side, the other interest or set of interests in one of these industry-wide hearings.

Mr. Swart: The insurance people get two notices. They can read papers. I have come to the conclusion that they do not know mathematics, but I presume they can read. They also get the individual notice. Why should not the various consumers who are concerned have the same right?

Mr. J. B. Nixon: I would like to make the point that there are approximately 130 companies writing insurance in this province, and the purpose of this bill is to regulate those companies and regulate their rates, and that is why they are going to be given notice. The consumers will be given appropriate notice when their specific interests are affected, and that is where we need flexibility because, when there is an industry-wide hearing, as opposed to a specific hearing, different interests of different people may be affected and the board needs that flexibility.

Mr. Chairman: I think we have had significant discussion on this issue. Shall section 14a--you moved it as subsections 1 through 2 because 3 is actually covered in our previous vote--subsections 1 and 2, as proposed by Mr. Swart, carry? All those in favour. Those opposed.

Motion negatived.

Mr. Chairman: Mr. Swart, in light of that, clause 11(4)(a)--

Mr. Swart: --is redundant.

Mr. Chairman: --is redundant.

Shall section 11 as amended carry? Those in favour? Those opposed?
Carried.

Section 11, as amended, agreed to.

Mr. Chairman: I believe the others were left to be postponed because of section 24. So we are now at 14.

I have here, I believe, an NDP amendment to 14, which really relates to 24. Are you content, Mr. Swart, that we postpone that until after section 24?

Clerk of the Committee: No, that was 14.

Mr. Chairman: Oh, I am sorry. That was 14. OK. Ms. Hart, would you--

Mr. Swart: We do have an amendment, additions, to subsection 12(1), two additions. That also relates to 24a, which we also propose, and we could deal with 24a now. If you want to take the ones before 24a and the other amendments that deal with different things and come back to this one to get 24a, I am in your hands.

Mr. Chairman: Well, it is five of one and half a dozen of the other, whichever way we do it. I think we are doing it better in order, if we come back to it, Mr. Swart, if that is acceptable at all.

Sections 14 to 18, inclusive, agreed to.

On section 19:

Mr. Chairman: There is a government amendment on section 19. Ms. Hart, would you move that amendment?

Ms. Hart: Does it come before 19 proper?

Mr. Chairman: Actually, we could move 19 as it presently stands. Although there should be a 19(1) there, should there not?

Clerk of the Committee: No, because it is only one clause now.

Mr. Chairman: OK.

Ms. Hart moves that the following subsection be added to section 19 of the bill:

"(2) Subsection (1) is amended on a day to be named by proclamation of the Lieutenant Governor by striking out 'Lieutenant Governor in Council' in the first line and inserting in lieu thereof 'board, by order, following an industry-wide hearing.'"

Do any members wish to speak to the matter?

Mr. Swart: Mr. Chairman, I can speak to this and I am in support of it. Given that we have, I believe, and perhaps somebody can point it out to me, in this bill a clause, which states that policy papers shall be prepared by the government and the board shall give due consideration to those policy papers. I am sorry. It is the superintendent of insurance in section 27:

"(1) The superintendent, with the approval of the Lieutenant Governor in Council, may issue policy statements on matters related to automobile insurance rates and dividends.

"(2) A policy statement takes effect on the day it is published in the Ontario Gazette.

"(3) In making orders under this act, the board shall have regard to the policy statements issued under this section."

I do not think the government should totally absolve itself of general policy with regard to classifications and a great variety of other things.

Mr. Chairman: Mr. Swart, I am sorry. Maybe others know what you are following, but I do not.

Mr. Swart: I think you will by the time--

Mr. Chairman: Oh, all right. OK. I see.

Mr. Swart: By the time I go over it the third time, you will.

Mr. Chairman: OK. It takes a while.

Mr. Swart: Perhaps I will even know myself what I mean.

Mr. Chairman: OK. Good.

Mr. Swart: What this motion before us does is delegate to the review board or the control board, which is the more accurate term, it delegates to them the power to set classifications or change classifications. It is supposed to be, I guess, a total arm's-length relationship. I am not at all sure that a government has decided that it should involve itself in reclassification then should totally absolve itself out of that responsibility at a later date, but with regard to the fact that there are policy statements--I am speaking to the right amendment, am I?

Mr. J. B. Nixon: No. Perhaps I can help you. There is an amendment proposed by the government, which you have, to subsection 27(1), which will give the superintendent of insurance, with the approval of the Lieutenant Governor in Council, the power to issue policy statements as regards categories of automobile insurance, classes of risk, exposure and automobile insurance rates and dividends. Through the superintendent, by way of order of the Lieutenant Governor in Council, the government may issue policy statements to the board on the risk classification system.

Mr. Swart: Mr. Chairman, I was aware of that. In fact, that is what I was speaking about when you interrupted me to say you did not understand.

I say with regard to the fact that there are policy statements, which puts some onus on the government to effect general policy, I can support the

amendment that we have before us. That is the point I was trying to make all the way through, that I do not believe that there should be this total negation of responsibility of the government on such things as classification, but because there is this policy statement, I will support this amendment, which transfers the authority for changing classifications and a great many other things to the control board. I am supporting the resolution because of those clauses in there with regard to policy statements.

Ms. Poole: Now we understand.

Mr. Chairman: Any further members wish to speak to this? All right. Shall subsection 19(2), as moved, carry? Those in favour? Those opposed. Carried.

Shall section 19, as amended, carry?

Mr. Swart: Mr. Chairman, I have another amendment.

Mr. Chairman: That is section 19a, though.

Mr. Swart: Yes.

Mr. Chairman: That will follow section 19.

Mr. Swart: It is part of section 19.

1510

Mr. Chairman: Actually, it will be a separate section. I would like to see that again.

Section 19, as amended, agreed to.

Mr. Chairman: There is an New Democratic Party amendment to section 19a. Mr. Swart or Mr. Hampton, would you like to move that?

Mr. Swart: Yes, I would so move.

Mr. Chairman: Mr. Swart moves that the following section be added to the bill:

"19a. In determining the classes of risk exposure and the rates that apply for any category of automobile insurance under a contract of insurance, information respecting a person who is a member of the policyholder's household shall not be considered unless that person is named as a principal driver or a secondary driver under the contract."

Mr. Swart: Speaking to this, I would point out that later on in the bill--I am very pleased about this and I will speak to it later--we are amending the Human Rights Code so that there cannot be discrimination based on age, sex, marital status, handicap and a number of other things, but it does not affect this type of discrimination, this family discrimination because one member may have a bad record. I would like to see right in the bill a clause, such as we have moved here, that would prohibit the insurance companies from considering other members of the household in setting rates on that vehicle.

Mr. Keyes: I just want clarification of the question. I am wondering, in the kind of purist world that we are going to be establishing

here, why that would even come up, anyway. If the person is not named as a secondary driver or the principal driver, then why is it going to be considered?

Mr. Swart: Of course, it has been in the past. I could get you all kinds of instances from my files where a man and a wife each has a car, each drives his or her own separate car and claims that one does not have access to the other, and the wife has had her rates raised two or three times because her husband is a bad driver. That is the reason this is proposed here.

Mr. Keyes: I wonder where you would include that concept, or is that in another aspect I thought we had just kind of covered. I have to go back to section 24, something where the board sets down all its rates, etc. Is section 24 not really where you would get into some of that, either 23 or 24?

Mr. Chairman: Perhaps Mr. Nixon can respond.

Mr. J. B. Nixon: The statement which I made earlier this morning on behalf of the ministry refers to this very specific problem. It is something that will be dealt with in the course of amendments to the Insurance Act and, additionally, gives the office of the superintendent of insurance powers to enforce this provision, issue cease and desist orders and fines and penalties and deal directly with this set of circumstances when it arises. It will be become a prohibited action under the Insurance Act.

Right now, and I know this is going to sound incredibly wordy, an insurer under the existing Insurance Act must consider all risks in the household. That is what the law says. We want to change the law. To do that, we have to do it in the Insurance Act. This would not have the force and effect that you intend by amending Bill 2. It is unfortunate, I agree with you, but it is not the appropriate place to deal with it. That is why we made the statement this morning saying we shall deal with it in those further amendments to the Insurance Act.

Mr. Chairman: Do any further members wish to speak to it?

Mr. Swart: I would like to speak to it again. It may be that it should be then a "notwithstanding" clause, "notwithstanding the Insurance Act." I think when we have the opportunity at this time to include it, it is wise. We do amend certain other acts in this bill. I was looking quickly--in fact, I thought we did amend the Insurance Act.

Mr. Chairman: Those have to be ruled on when they come forward.

Mr. Swart: But we are, in fact, amending other acts. It seems to me we have to amend the Insurance Act, if that is the wish of this group.

Mr. Chairman: Those amendments are proposed, but whether, when we get to them, they will be ruled in order or out of order remains to be seen.

Mr. J. B. Nixon: They are not going to be tabled in this committee. It is in the spring session, we hope.

Mr. Chairman: Go ahead, Mr. Swart. I am sorry. You have the floor.

Mr. Swart: In any event--I do not know whether you know the section of the act--I would like to move "notwithstanding section so-and-so of the Insurance Act."

Mr. J. B. Nixon: I do not know, but we can easily find that for you. The problem is the Insurance Act deems everyone in the household, your household or my household, to be a secondary driver for insurance underwriting purposes. The problem you get into with these "notwithstanding" clauses is that you have two different provisions on the books. I do not know the legal answer as to which prevails. I do not like the idea and I do not think frankly, sir, you like the idea of people litigating this in the courts as to what is right and what is appropriate when we can deal with it expeditiously in the proper place in the forthcoming amendments.

Mr. Swart: We are having a two-way discussion here. I would like to see the Insurance Act before us to be amended too--the cleanest, simplest way of doing it. I have been around this place a long time and I have known how long it takes sometimes, to get a simple amendment through in another act. I think that if we passed this today, even without the "notwithstanding" clause, it would expedite getting the amendments to the Insurance Act. Certainly if anybody started to take litigation--I suggest nobody will. We have a new act here, but I suggest they will abide by this. But certainly if there was litigation, that would expedite getting the change in the act. I just want to deal with it when we have it.

I feel strongly about this. I know some of these people. There is a horrendous penalty applied, generally to the wife, I must say, because of the husband's driving record.

Mr. J. B. Nixon: It is our position, quite simply, that you can fix something the right way and you can fix something the wrong way. We prefer to fix it the right way.

Mr. Swart: Or not fix it at all, and that is what bothers me.

Mr. J. B. Nixon: I thought that might evoke further comment.

Mr. Chairman: Are there any further members who wish to speak to this?

Shall section 19a, as moved by Mr. Swart, carry? Those in favour? Those opposed?

Motion negatived.

Mr. Chairman: I gather you have another amendment, Mr. Swart, subsection 19a at page 12 of the package. Do you want Mr. Hampton to move that?

Mr. Swart: I will move it.

Mr. Chairman: Mr. Swart moves that the following section be added to the bill:

"19a. In prescribing the classes of risk exposures, regard shall be had of a person's driving experience without regard to the number of years that the person has been insured under a contract of automobile insurance."

Mr. Swart: This is another injustice that we have seen repeatedly. By "we," I mean I and my party in our public hearings and so on.

We had--I believe this was carried in the paper--a couple who went to Africa as missionaries for two years and came back and had to start as new drivers at the higher category, as though they had never driven before in their lives, although they drove while they were over there and they had a spotless record while they were here in Canada prior to going to Africa.

We have had other persons. We had a person who sold a car in Alberta. He lived out there for many years. He was involved in the oil industry and lost his job, as many people did. He eventually sold his house and moved back to Ontario. He had sold his car out there and was without a car for one year. He took a job here in Ontario as a delivery man with a truck. He drove for one year with a spotless record. At the end of the year, he bought a car. He went to get insurance for his own car, and he had to pay as if he was a new driver because he had the one-year break. The same is true if you have a break in car ownership. He had the break in car ownership, but he still had his driver's licence.

We suggest that those kind of things ought to be legislated against--it is a deplorable practice--and this amendment does just that.

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Ms. Poole: My understanding of the driving experience classification was that it did not refer to uninterrupted driving experience, that if you had five years' driving experience, went to Africa for two years and came back, those previous five years would be considered as part of your driving experience, so I really do not see the necessity for this amendment. I suppose what Mr. Swart might be suggesting is that you determine the person's experience by the number of years he has had a driver's licence, but I have a problem with that particular instance. For instance, if you take my own situation, I had my driver's licence when I was at the age of 18, but I did not actually drive a car until I was 28 years of age. Yet for those 10 years--please do not tell this to my insurer--I was considered as a driver.

Mr. Chairman: They were afraid of you then.

Ms. Poole: You have not seen me on the road lately. Then you would really be afraid of me.

Mr. Keyes: You will never get a high enough cushion under you.

Ms. Poole: You are sitting in a very dangerous position, Mr. Keyes.

So I oppose this amendment.

Mr. J. B. Nixon: The amendment deals with a matter which has been, we think, dealt with under the classification system, as proposed. It may be that it needs some fine-tuning, but that is the purpose of all of the consultation which has occurred and much more which will occur.

The problem with the amendment is that it actually limits or restricts what the government can do in terms of dealing with this issue rather than mandates a perfect solution for all instances in which it arises. For instance, the question arises in my mind, how do we establish driving experience, in which countries and when will it be acceptable and when will it not be acceptable? There may be issues such as Ms. Poole raises. It is our position that we have greater flexibility in the regulations. That is the appropriate area to deal with this matter and the type of amendment proposed only restricts the government's ability to deal with the problem.

Mr. Chairman: Just one thing. Yesterday, in Sudbury, we were told that an agent suggested a person keep up his insurance if he was not driving in order to establish a record of his experience. I do not know whether that is what Mr. Swart is getting at here.

Mr. J. B. Nixon: I do not think what--I will not speak for Mr. Swart.

Mr. Chairman: I would like that clarified for me.

Mr. Swart: Yes, I would like to speak for Mr. Swart. There is not anybody in this room--at least I do not think there is--who disagrees with the principle in the amendment. I think it is a sound principle, and it only is a principle in this amendment. A person who has a break--if you do not have a car and do not have it insured, if they look at your driving experience and your driving experience is there, good driving experience--there is not a word in this about driver's licence; we say "a person's driving experience" in this amendment. Just because you did not have a car insured for a year, they should not start you out as a new driver. As I say, I do not think there is a person in this room who disagrees with it.

The question is, what do we do about it? Do we leave it for some classification? We do not know when those classifications will be in place and we do not know, at this time, what those classifications will be. The whole classification system is all problematical at the present time. You say it is in the classification system. We do not have any classification system. We have a draft classification system put out by the government, and on that William M. Mercer has made some projections of how it will affect us. We do not have that yet. If the principle is sound, my suggestion is we put it in the bill now. That is what legislation is all about.

Mr. J. B. Nixon: I would just like to make a point, which I think you may agree with; that is, throughout these hearings I have heard you on more than one occasion say, "We should not be using years of driving experience as a criterion in the classification system."

Mr. Swart: No, I have said we should not be using the kind of extensive classification on years of driving. I have never said that should not be a factor.

Mr. J. B. Nixon: Some day in the future someone, some government, some rate review board, may decide that is an inappropriate criterion for determining and setting rates; yet this would bind them to do just that. That is only an example of the kind of inflexibility which this rule imposes.

Mr. Keyes: I always felt that legislation should not be so all-encompassing and binding that it does not allow flexibility to some extent with, in this case, the board you have set up. That is what we seem to be doing, which really reiterates what Mr. Nixon said. There might very well be the taxi driver who drives 10 years and has an excellent record, but he may never own a vehicle and he would never have one insured. Maybe I should not use taxis, but as an individual, you could do that type of thing and never have an insured vehicle in your control. I just think that gets too restrictive.

The review board would look after that situation under the current type of designation, because it talks about years of driving experience. I just think maybe we should be making representation as a committee to the group

that hears the classification system. This type of thing, both of the amendments you have just handed us, should be sent to them. You might want to consider that.

Mr. Swart: There is only one problem. There is not going to be any group hearing of classification systems, only written submissions. However, I fully support you. I know you will be supporting my motion to make a written submission when it comes up again, will you not?

Mr. Keyes: Not the one you put this morning, because that was a different type. You were going to go back to the minister. We might send a specific one off to the group hearing rate classifications.

Mr. Chairman: I think we now have had full and frank discussion on this issue.

Shall section 19a--and just for purposes of identifying it in Hansard, the second amendment proposed by Mr. Swart--carry?

Those in favour? Those opposed?

Motion negatived.

Mr. Chairman: I wonder if we could move on to section 24, with the unanimous consent of the committee.

Interjection.

Mr. Chairman: Is somebody looking for five minutes?

Mr. J. B. Nixon: Yes.

Mr. Chairman: We stand adjourned until 3:40 p.m.

The committee recessed at 3:29 p.m.

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Mr. Chairman: We were going to move on to section 24.

Mr. J. B. Nixon: Could I suggest we proceed with section 20? We are having some last-minute discussions with the Facility Association and, hopefully, we can resolve them at five o'clock tonight. That means the ministry. Nothing earth shattering; technical details.

Mr. Swart: Are you suggesting that we wait until tomorrow to deal with that?

Mr. J. B. Nixon: Yes.

Mr. Swart: I am agreeable to that.

Mr. Chairman: I suppose we could deal with section 20 through 12.

Mr. Swart: I am going to suggest that we deal with either section 24a, which we proposed, because it is only an add-on, regardless--

Mr. Chairman: You want to move to section 24a? We need unanimous consent then to postpone sections 20, 21 and 22. Is that agreed?

Clerk of the Committee: We could deal with section 22.

Mr. Chairman: Perhaps we will deal with section 22 if that is agreeable to the committee; then we will deal with section 24a and perhaps we will let you all out of school early today.

There appear to be no amendments. Anybody wish to speak to those matters? Those in favour? Those opposed? Carried.

Section 22 agreed to.

Mr. Chairman: We can move on to section 24a then.

Mr. Swart: What about section 23? I know I am changing around here myself.

Mr. Chairman: Section 23 has reference to section 24 as well. If you want to hold off on section 24a, Mr. Swart, we could either move on beyond that or--

Clerk of the Committee: Section 23 has a government amendment.

Mr. Chairman: Yes, it has a government amendment.

Clerk of the Committee: It refers back to subsection 20(13), which refers to section 24.

Mr. Chairman: Right. Mr. Swart, if you want we can deal with section 24a, or if you want we can move on beyond that to part III. Which would you rather do?

Mr. Swart: I do not mind dealing with section 24a. Perhaps because we do not have the final version of 24, it might require some adjusting afterwards and it might be wise to let it go until we deal with section 24 tomorrow morning.

Mr. Chairman: Can we move on then to part III?

Section 25:

Ms. Hart moves that subsection 25(1) of the bill be struck out and the following substituted therefor:

"(1) No insurer shall issue a dividend in respect of a contract of automobile insurance unless the dividend has been approved by the board."

Mr. Chairman: Are there members who wish to speak to that matter?

Mr. Swart: Yes, I do want to speak to that. I am not necessarily in opposition to it, but perhaps we can have an explanation of why section 25 originally dealt with a mutual corporation and now deals with the insurance industry generally?

It may be a surprise coming from me, but I am not sure whether we want to really prohibit any insurance company, once we establish the rates and all the rest of this, from paying out that dividend without approval. The mutuals are in a little different circumstance. I would like an explanation on that before I decide how to vote.

Mr. J. B. Nixon: There are really two amendments to the original subsection 25(1). One is to remove the adjective "mutual" as it modifies the word "corporation." The other is to restrict the issuance of a dividend to the issuance of a dividend in respect of automobile insurance.

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With respect to the latter, the restriction of the regulation to the regulation of automobile insurance dividends just clarifies that the purview and the purpose of this board are to deal with automobile insurance, not all insurance--not householders' insurance, not any other type of insurance. That is why it deals with automobile insurance and dividends in respect of automobile insurance, not all dividends.

With respect to the change from "mutual corporation" to just plain "insurer," I would like the staff to speak to that one, unless you have questions on the first one that I have discussed.

Mr. Swart: No, I understood the question.

Mr. J. B. Nixon: OK.

Mr. Swart: It is the second question I want answered.

Ms. Parrish: This is a very technical explanation and I hope I do not sound too tiresome when I make it. We were trying to capture what people in the trade call mutual insurance companies, because they are the people who issue dividends.

If a joint stock company issued a similar instrument, it would be a rebate, and rebates are prohibited under the Insurance Act. When we did the initial drafting, we wanted to say this should be these mutual insurance companies. However, "mutual insurance company" is a defined term in the Insurance Act, which means a company that writes under the premium note plan.

The premium note plan is a very old-fashioned method of doing insurance which went out literally with the whip and buggy, and there are no companies in Ontario that write under the premium note plan. They all write as ordinary insurers do. We felt that, first of all, there was no point in having this archaic definition dragged in, in which insurance companies which we think of as mutual insurance companies, like farm mutuals or State Farm, are technically not mutual companies because they do not write under the premium note plan.

We felt that if we simply moved to the definition that we have here, "no insurer," it would cover the situation, because the Insurance Act already prohibits rebates. There was no danger that this would somehow authorize something that is prohibited in the Insurance Act. We had to change the definition simply because technically all the companies that we think of as being mutual insurance companies, within the strict understanding of this definition that refers to the premium note plan, are not mutual companies. They are just insurers that have a mutual structure of ownership.

Mr. Swart: Maybe I will ask a supplementary, perhaps out of ignorance. If I have an auto insurance company in Ontario and I am a shareholder in that auto insurance company and I am paid dividends on my shares, are you going to control that? Is that not what this says?

Ms. Parrish: No, because that dividend would not be in respect of a contract of automobile insurance. It would be in respect of your ownership interest in the corporation. That is the distinction of the dividend of a mutual company, which is often called in the co-operative trade a participation dividend, which is based on the participation you have. It is like United Co-operatives of Ontario. If you buy lots of shovels, you get your dividend based on your participation by purchasing the goods.

I agree with you that if we simply said "no company will issue the dividend," we would have a technical problem. But because the dividend is in relation to the contract of automobile insurance, i.e., it is a participation dividend, we think it is technically covered.

Mr. Swart: Fine. Thank you for that explanation. I understand it now. But again, might I ask the parliamentary assistant, what is the justification for prohibiting dividends being paid out by a mutual company without approval? Should this not come under the Insurance Act? Do you not constantly, under the Ministry of Financial Institutions, monitor the insurance companies, including the mutuals, to assure that they are viable companies and they are not going to go broke? Why do we interfere in the paying out of dividends?

I realize that the paying out of dividends effectively affects the rates that they are paying. But if at the end of the year they find they can pay out dividends, you are saying, in effect, I presume, they are lowering their rates and therefore they have to have approval for doing that. Is that what you are saying?

Mr. J. B. Nixon: That is, in effect, what we are saying. The fact is that they may use the rebates or the refunds or the dividends, whatever you may call them, as a marketing tool to effectively offer lower prices in the market than other companies may be doing because they do not have the dividend refund rebate powers or privileges.

On its face, it is a good thing, they are offering lower prices, but it may be a predatory practice to expand their market share by offering these ultimately lower prices, taking the market share away from another company, the result being that with their expanded base of low-premium revenue, they have to come back to the board and say, "Now that we've got all these insureds, we don't have adequate capital bases and we have to raise prices extraordinarily."

That is one scenario which follows from not regulating the dividend refund rebate and it is one of the complications which arises in any rate board, but I think you have hit on the essence of the problem.

Mr. Swart: As I understand it, what you are saying, in effect, is that this rate review board is going to prevent any company from reducing its rates below the levels which have been set--I do not know whether that is a band--without getting approval because it may be predatory practising and mutuals could use this technique to do the predatory practices.

Mr. J. B. Nixon: That is correct. Let me just make a further comment on that. Many of the problems in the industry, in the marketplace, which have arisen in the last couple of years, it is alleged, and it seems to make a lot of sense, arose from what was called the cash flow underwriting in the early 1980s. Given the very high investment return that could be obtained in the market with inflation at 18, 20, 24 per cent, a lot of insurance

companies--not all--said, "We don't care what rate we charge because we can make so much income on our investments, we've just got to get more money in." The more money they got in, the more money they could--

Mr. Swart: I have used that line many times with them.

Mr. J. B. Nixon: But the problem they went into--

Mr. Hampton: Why do they all deny it now?

Mr. J. B. Nixon: Well, you only listen to half the story; that is your problem. Let me tell you the other half.

The other half of the story is, when interest rates fall----

Mr. Swart: It will be a story too.

Mr. J. B. Nixon: Just bear me out.

Mr. Chairman: These all go in his footnotes, by the way; they do not go into the total flow of Hansard.

Mr. J. B. Nixon: When interest rates fall they cannot gather the necessary capital to have a sufficient capital base in reserves for solvency purposes, so they have suddenly and very drastically to jack up the premium rates. I think Mr. Hampton is agreeing with me. One of the effects of the rate review board--not to be too pedantic--will be to stabilize the marketplace and ensure that that type of cash flow underwriting does not occur.

Mr. Swart: Yes. I have some reservations on that. I must say I am tremendously surprised that Mr. Runciman has not got in on this part of the debate, when what we are saying, in effect, is that this board is not only going to prevent increases which it thinks are unjustified but it is also going to prevent decreases unless the board thinks the company will be viable with those decreases.

You already have a system in place, I think, for assuring that companies are viable under the Insurance Act. To go this further step of intervention--I am speaking on behalf of Mr. Runciman--seems terribly unwarranted, does it not?

Mr. Runciman: Never presume to do that for me.

Mr. Swart: No, I think we can agree that you and I will not speak for each other.

Mr. Chairman: He is so shocked to answer it, Mr. Swart, that they put Mr. Runciman's name opposite it. Is that all you have to say, Mr. Swart?

Mr. Swart: It is probably not all this afternoon.

Mr. Chairman: Any further comments by members? The thing that frightens me is that Colleen says it went out with the horse and buggy and I can still remember policies that were written that way. I do not know what that means. However, any further comments?

Shall subsection 25(1) carry? Those in favour? Those opposed? Carried.

Mr. Runciman: I did the important thing. I voted against it.

Mr. Swart: There is no record here of it.

Mr. Chairman: There are no amendments to subsections 25(2), (3) and (4).

Mr. J. B. Nixon: Mr. Swart, I just want to mention for the benefit of committee members that there is also the question of entitlement that the board had to determine. For instance, the mutual or the joint stock corporation may decide to issue refunds and rebates only to holders of automobile insurance policies, which would violate effectively either their corporate bylaws or the rules governing the conduct of joint stock companies and mutual companies. So they would have to look at entitlement in answer to the question, is it the holders of auto insurance policies who are entitled to this rebate or is everyone?

Mr. Swart: You did not need to give me an explanation. I voted for it.

Mr. J. B. Nixon: I am just trying to help.

Mr. Chairman: We have had full discussion on that issue. Shall subsections 25(2) through (4) carry? Those in favour? Those opposed? Carried.

Section 25, as amended, agreed to.

Mr. Chairman: It is four o'clock. Is it the wish of the committee that we leave this until tomorrow and adjourn at this time?

Mr. Keyes: That is not a suggestion that this is too early, is it?

Mr. Chairman: We could sit here for another hour, if you like.

Mr. Swart: We are moving along very well.

Mr. Chairman: Would somebody like to move an adjournment?

Ms. Hart: I would.

The committee adjourned at 4:02 p.m.

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